



NEW ZEALAND - THE OFFSHORE EVOLUTION ESSENTIAL GUIDE FOR INTERNATIONAL COMPANIES

New Zealand has evolved one of the best and most comprehensive asset protection and offshore tax minimization systems in the world whilst at the same time avoiding any issues of blacklisting as an offshore destination by the OECD countries. This plus a comprehensive bundle of Free Trade agreements and Double Taxation Agreements mean that today a properly structured and planned asset protection strategy involving the use of New Zealand companies and non resident trusts ensures the safest and most efficient structure possible.

This article talks about two important New Zealand wealth acceleration and asset protection vehicles –The Look Through Company and The New Zealand Foreign Trust.

THE TRUST:

A New Zealand Foreign Trust is a trust entered into by a non-resident Settlor with a New Zealand Resident Trustee for the benefit of non-resident Beneficiaries, where no income is earned in New Zealand.

New Zealand parliament has carefully legislated for the protection of foreign or non resident trusts and their assets. The New Zealand Foreign Trust regime is considered to be one of the best if not the best offshore trust regimes in the world today.

Under the section HC 26 of the Income Tax Act 2007 a foreign-sourced amount that a New Zealand resident trustee derives in an income year is exempt income if no settlor of the trust is at any time in the income year a New Zealand resident. Basically, it means that a Trust created (settled) by a non resident (corporation or individual) pays **Zero tax** on all income derived from foreign sources. That is the Trust can invest in shares and securities, buy and sell assets, lend money and receive interest and pay no tax on any of these transactions.

Well-known advantages of New Zealand Foreign Trusts are as follows:

- Trusts are not subject to tax in New Zealand, apart from income earned in New Zealand,
- Gifts and settlements by a non-resident settlor are not subject to tax in New Zealand,
- Distributions to non-resident beneficiaries are not subject to tax, provided the income does not have its source in New Zealand,
- New Zealand Trust is recognised by other jurisdictions and makes use of New Zealand's 35 double tax agreements,
- Compliance and reporting requirements for New Zealand Foreign Trusts are minimal, and no audit of a trust is required and no annual tax returns need to be filed.



But one may not know that a properly established trust is virtually impossible to set aside and hence the trusts assets are entirely safe as long as all assets are properly transferred to the trust.

Another advantage is that a trust can own property in New Zealand and pay no capital gains tax on increases in value of property. Under New Zealand's latest immigration laws buying property in New Zealand can also allow the investors to obtain residency for themselves and their families. Thus the trust can become both an investment, asset protection and migration vehicle rolled into one.

THE LOOK THROUGH:

Legislation passed in December 2010 creates a new tax entity known as the look-through company or LTC. LTC's coming into existence is very recent, just on or after 1 April 2011.

New Zealand Parliament legislated for a more effective and transparent regime for non residents wishing to register companies in New Zealand. The company regime was called "Look Through" because the entity passes through income to their owners and a LTC is not taxed at a company level, all its income flows to its shareholders. In essence, fiscally it means the non resident shareholders of a LTC are able to pay no tax in New Zealand as long as their income of the New Zealand look through is derived from offshore.

Thus in order not to pay New Zealand taxes a look through company must have the following general requirements:

1. its shareholders (five or less) are non resident physical persons or trustees;
2. the shareholders receive their share of profit and loss from non New Zealand sources;
3. it must be registered with the tax department of New Zealand as a Look through structure;
4. it must file basic annual and tax returns each year.

THE COMBINATION OF LOOK THROUGH & TRUST:

New Zealand Foreign trusts are the ideal vehicle to hold profit-generating assets as a real estate, shares, intellectual property rights etc. As a general idea it is not recommended to use trusts as a commercial trading structure because this can expose the trust to liability and create accounting and other issues.

The Look Through Company on the other hand is perfect as a commercial trading vehicle.



The combination of these two structures creates the best offshore wealth creation and preservation vehicle available today, here is how it works.

A look through company [let us call it oil trade] is created by a Russian individual shareholder [Mr. Karpov] and a Chinese individual shareholder [Mr. Lee].

Lee and Karpov trade in oil between Russian and China so oil trade company [which is now registered as a New Zealand look-through company] earns a profit of say 1 million.

If Lee and Karpov distribute the profit to themselves then they will pay tax on the income received in their country of residence. However Lee and Karpov at the same time settle their shareholding and all dividends and profits into a New Zealand trust which is managed by a professional trustee company.

The profit then goes into a separate bank account which is owned by the trust. Since the money is derived from overseas likewise it is non-taxable but is now considered trust property so no tax has to be paid on the monies anywhere and this money can be accumulated for the benefit of Lee's and Karpov's children or even Lee and Karpov.

So long as the money is not in law distributed to Lee and Karpov [note it can be used loaned, borrowed] Lee and Karpov do not need to declare these funds as their income and hence they are not taxable anywhere in the world. The trust can then on Lee and Karpov's request invest in shares, securities, property and other assets-lend money to Lee and Karpov personally or to their business structures including back to oil trade at a percentage interest rate, etc.

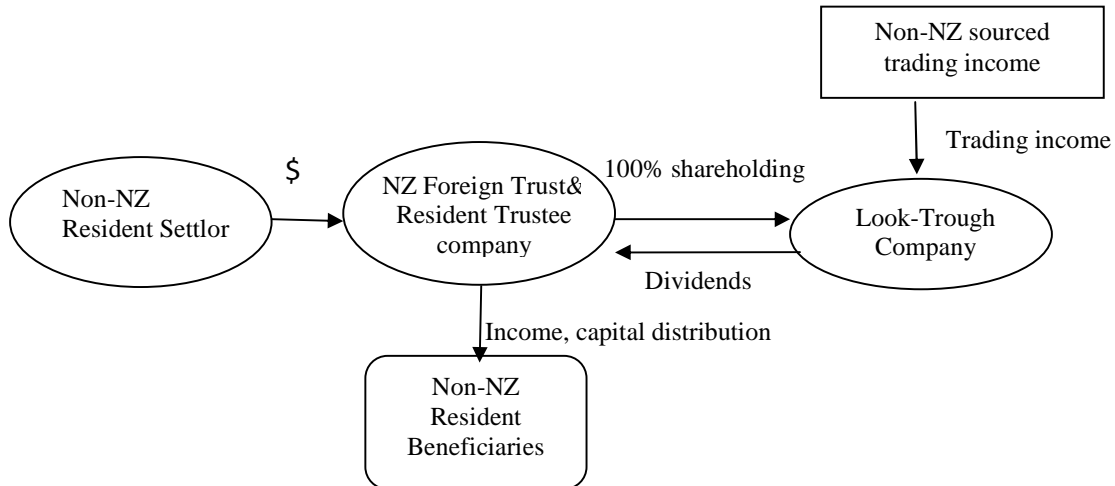
If Lee or Karpov are ever sued by creditors, their ex-wives or made bankrupt by anybody the money held in the trust cannot be touched because in law it does not belong to them but to the trust. Further if properly structured the trustee does not have any obligation to disclose who are the ultimate beneficiaries of the trust.

Thus although Karpov and Lee control or use the money in fact they are protected in law by the concept that the trust rather than themselves own the assets. It is by use of this mechanism that the richest families in the world (such as the Rothschilds) are able to preserve their wealth.

Further if ever Oil Trade is sued for example for supplying bad oil then its liability is limited to its assets and since oil trade has no assets (which are all in trust) there is in effect no one to claim damages from.



A typical example utilizing a combination of a NZ foreign trust and a LTC



Thus for the first time a trading vehicle can be combined with an asset protection vehicle to provide one of the best and safest asset protection mechanisms ever created.

HOW WE CAN HELP

We can do everything you need to set up and administer a New Zealand Foreign Trust and a Look-Through Company including:

- Give an opinion on your existing structure and assess risks;
- Drafting the trust deed and all ancillary documentation;
- Providing a professional New Zealand Resident Trustee;
- Registering the New Zealand Foreign Trust with NZ IRD as required by law;
- Incorporating a Special Purpose Resident Trustee Company for you;
- Incorporating a Look-Through Company or transfer an existing limited liability company to LTC;
- Providing a registered office for the New Zealand Foreign Trust, Trustee Company and Look-Through Company;
- Carrying out all administrative and compliance obligations for both the New Zealand Resident Trust, Trustee Company and Look-Through Company.

Please feel free to contact us with any questions or queries that you might have regarding possible formations.

Trust 4 Trust South America LP

info@trust4trust.com

Ph.: +41 91 220 4710

Fax: +41 91 220 4711

Mob: +41 79 93 400 50