

Private Client Group

Our highly experienced Private Client Group offers expert practical legal advice and services to local and international high net worth individuals, institutional trustees and other fiduciary service providers. Our Private Client Group delivers invaluable expertise in both contentious and non-contentious proceedings in a wide variety of complex matters of significant value.

Photo of Zara 77 courtesy of Andrew Stephenson

CORPORATE | LITIGATION | PROPERTY | PRIVATE CLIENT

MJM LIMITED

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BARRISTERS
& ATTORNEYS

OUR SERVICES

MJM Limited is one of Bermuda's leading law firms, offering advice and services to local and international, commercial and private clients. Our highly experienced Private Client team has the knowledge and resources to carefully and thoughtfully tailor our clients' trust and estate planning requirements to their individual circumstances and goals by applying a practical application of the law in this increasingly sophisticated and complex regulatory environment. As a result, we have built strong lasting relationships with our clients.

NON-CONTENTIOUS MATTERS

The Private Client practice group at MJM undertakes non-contentious individual and commercial private client work, including the establishment of Bermuda based trusts which often involve complex underlying structures, to achieve efficient long term estate, succession, wealth and tax planning and or to promote philanthropic objectives. We offer estate planning advice, will drafting, undertake probate applications and estate administration. All matters are handled with care, dedication, sensitivity and confidentiality.

CONTENTIOUS MATTERS

MJM's Litigation and Dispute Resolution team are no strangers to contentious matters with over 100 years of combined experience. This dedicated team work closely with the Private Client Group to service clients in all areas of contentious trust and estate matters.

TAX PLANNING

MJM's Private Client Group assists and advises on the establishment of various Bermuda trusts with underlying private trust company structures, to implement long term inheritance, tax planning for various overseas resident non-domiciled individuals, in relation to their overseas real estate holdings. MJM works with top accounting firms, who provide the relevant jurisdiction's tax advice on the proposed structures and transactions.

ESTABLISHING TRUSTS AND ADVISING ON TRUST RESTRUCTURES

The MJM team have extensive knowledge and experience in establishing trusts and trust restructuring such as simplification of Bermuda-based trust and corporate structures into more streamlined arrangements or simply modernising existing trust provisions for the improved administration of the trust.

CHARITABLE TRUSTS

Over the years, MJM has built relationships with a wide range of industries who have sought the establishment of Bermuda charitable trusts to hold substantial assets for the promotion of charitable work and objectives, specifically in the areas of education and support.

OTHER SERVICES

- Incorporating trust companies (licensed and private)
- Establishing and advising on private and commercial purpose trust structures
- Advising on estate planning and administration
- Representing executors, trustees, beneficiaries, settlors and protectors in contentious disputes
- Variation of trusts

BERMUDA AS AN ATTRACTIVE TRUST JURISDICTION

Bermuda is seen as a prime jurisdiction for many global HNWIs considering establishing a new trust or other private client structures, or simply looking to restructure an existing trust. Bermuda offers a well-established and reputable trust industry as well as a premier financial centre with a superior regulatory framework. Bermuda also offers:

- A highly regarded 400-year-old judicial system.
- World-recognised and award-winning practitioners with a wealth of experience in the private client industry.
- A favourable location both in terms of time zone and access.

The reasons for setting up trusts in Bermuda are diverse, and include estate and succession planning, asset protection, beneficial tax structuring, and avoidance of laws restricting testamentary freedom. In addition to this, Bermuda has also enacted and updated legislation specifically designed to facilitate the operation of trusts for modern commercial or private client purposes.

Members of the trust industry in Bermuda work closely together to ensure the island's legislation is regularly updated to suit the developing needs of the market it serves.

Among many examples are the changes to the Trusts (Special Provisions) Act 1989, which provide clarity on the interests and powers that a settlor can retain or grant to a third party without prejudicing the validity of the trust. Furthermore, Bermuda is one of only two jurisdictions to maintain the Hastings-Bass rule by affording the Court discretion to rectify fiduciary errors.

Another key legislative change in recent years has been the introduction of section 47 of the Trustee Act. Currently no other offshore jurisdiction has a similar provision to this.

Section 47 allows the Court to exercise its discretion in sanctioning the variation of administrative powers of the trust provided the variation is

expedient for the trust. One of the principal features of this type of variation is that beneficiary consent to the variation is not required - even if it may impact their beneficial interests. Experience has shown that large dynastic family trusts from other jurisdictions are increasingly being re-domiciled to Bermuda to take advantage of section 47 in order to:

- Vary the beneficial interests of the trust;
- Extend the perpetuity period of the trust;
- Ratify decisions made by (de-facto) trustees when their appointment or retirement is defective;
- Vary investment powers;
- Add powers to appoint trustees; and
- Generally modernise the provisions in the trust for example trustee charging powers.

Non-charitable purpose trusts also continue to be popular, particularly in the context of commercial interests. (Bermuda was the first offshore jurisdiction to adopt legislation providing for valid non-charitable purpose trusts, under the Trusts (Special Provisions) Act 1989.) Additionally, charitable trusts may be established in Bermuda, to create a charitable fund or to make provision for existing charitable institutions or purposes.

Overall, such changes demonstrate that Bermuda is committed to providing a competitive, modern and flexible jurisdiction for the formation of trusts or relocation of existing trusts, in addition to being more accessible to global HNWIs who are unfamiliar with the trust concept. As the global HNWI population grows and develops so does Bermuda's popularity as the jurisdiction of choice.

At MJM we are committed to increasing Bermuda's competitive advantage over other jurisdictions in the trust arena. To that end, we actively promote and support the initiatives of the Bermuda Business Development Agency (BDA) with respect to legislative reform.

OUR TEAM

MJM Limited is consistently recognised by the world's most respected benchmarking publications for leadership in law, excellence in client service and longstanding depth of experience in our practice areas.

PRIVATE CLIENT TEAM



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