

## KEY FACTS

# DISCRETIONARY TRUST

A BAHAMAS DISCRETIONARY TRUST IS A PRIVATE LEGAL ARRANGEMENT GOVERNED BY BAHAMIAN LAW, UNDER WHICH A SETTLOR TRANSFERS ASSETS TO A TRUSTEE TO BE HELD AND ADMINISTERED FOR THE BENEFIT OF A CLASS OF BENEFICIARIES. THE TRUSTEE IS GRANTED DISCRETION TO DETERMINE WHETHER, WHEN, AND TO WHOM INCOME OR CAPITAL DISTRIBUTIONS ARE MADE, IN ACCORDANCE WITH THE TERMS OF THE TRUST DEED.

Unlike fixed-interest trusts, beneficiaries do not have an automatic or fixed entitlement to trust assets. This allows the trust to adapt to changing family, financial, or regulatory circumstances over time.

### OBJECTIVE

A Bahamas discretionary trust provides a flexible and efficient structure for holding and managing assets for the benefit of current and future beneficiaries, while allowing the trustee to exercise discretion in line with the settlor's intentions as set out in the trust deed.

Discretionary trusts are particularly appropriate where beneficiaries' circumstances may change over time, or where it is desirable to avoid fixed entitlements and preserve trustee flexibility in administration and succession planning.

### BENEFITS

- > **Flexibility:** Trustee discretion allows income and capital distributions to be adapted over time without the need to amend the trust structure.
- > **Asset Protection:** Bahamian trust legislation provides strong protection against foreign claims and forced heirship rules, subject to applicable law.
- > **Confidentiality:** Discretionary trusts in The Bahamas are private arrangements and are not subject to public registration.
- > **Long-Term Planning:** There is no mandatory maximum perpetuity period unless specified in the trust deed.
- > **Tax Neutrality:** The Bahamas does not impose income, capital gains, inheritance, or estate taxes on trust assets or distributions, subject to beneficiaries' own tax positions.

### KEY FEATURES

- > In its legal construction, a discretionary trust is a private trust arrangement governed by Bahamian law.
- > It is designed to provide flexibility through trustee discretion over income and capital distributions.
- > It may be established for an indefinite period, unless otherwise specified in the trust deed.
- > The terms, objectives, and administrative framework of the trust are set out in a trust deed executed by the settlor.
- > The settlor may be an individual or a legal person.
- > The settlor may reserve certain rights and powers without invalidating the trust, in accordance with Bahamian law.
- > Beneficiaries do not have fixed or automatic entitlements to trust assets.
- > A protector may be appointed to oversee specific trustee actions or to hold reserved powers.
- > There is no requirement for public registration of the trust in The Bahamas.
- > A licensed Bahamian financial and corporate services provider is typically appointed to act as trustee or administrator, as applicable.

## TYPICAL USES

Bahamas discretionary trusts are commonly used in private wealth and estate planning structures where flexibility and long-term planning are key considerations. They are particularly suitable for succession and intergenerational planning, allowing trustees to adapt distributions over time in response to beneficiaries' evolving circumstances.

Discretionary trusts are also frequently used as asset-holding vehicles, including for investment portfolios or family assets, and may form part of wider structures involving private holding companies to support efficient ownership and administration arrangements.

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