

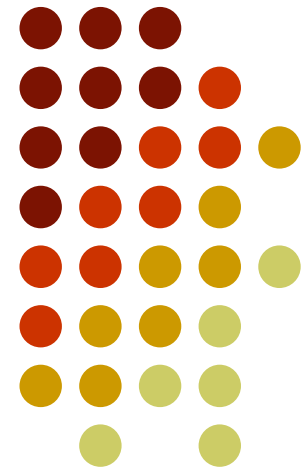
# Expert Workshop on European Trusts

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# The UK Trust



- Settlor
  - Makes irrevocable gift
- Trust property
  - Legally transferred to the ownership of the trustee(s)
- Trustee(s)
  - Holds the asset for a time limited period
  - Subject to the trust deed
  - Distribute to beneficiaries
    - Income or capital
    - As directed by the trust deed or at their discretion

# The UK Trust (Cont.)



- Beneficiaries
  - Usually at least two
  - Having an interest in less than the whole trust property

# What cannot be the case in a UK Trust



- The settlor is the trustee
- The trustee is a beneficiary
- The settlor is a beneficiary (except a bare trust )
- The beneficiaries have absolute entitlement to the property (unless it is a bare trust)



# Bare trusts

- The exceptional case in UK trust law
- They're not really trusts at all
- They are nominee arrangements
- The beneficiary is taxed as if the trust is theirs

# Tax and a UK trust

- Frankly, not many benefits left now
- And even some disadvantages



# The offshore trust



- It might look like a UK trust
- But it's NOT a UK trust

# Jersey / Cayman /BVI trust law



- These are the three that matter
- All promote new and abusive trusts
  - BVI - VISTA trusts
  - Cayman - Star Trusts
  - Jersey - The 2006 Trust law
- All create 'sham trusts'



# Sham Trusts



- Trusts that aren't trusts at all
- In BVI / Cayman / Jersey
  - Trusts can now be revoked - there is no gift
  - The settlor can tell the trustee what to do - so there is no trustee
  - The trust property can be returned to the settlor at any time
  - The settlor may be a beneficiary
- These aren't trusts!
- These are legalised shams!

# What are they used for?



- Secrecy - to hide ownership, especially when linked to nominee companies that actually hold the assets
- Tax abuse - evading the EU STD for example
- Tax evasion - hiding re-invoicing within private groups of companies
- Breaching residence rules

# BVI / Cayman / Jersey trusts and tax



- There is no tax on non-resident trusts
- They never ask where the trust is resident
- Supposedly these trusts are discretionary - so no tax will be paid if income and gains not allocated
- Actually as nominee 'bare trusts' they should give risk to tax in full on the settlor
- That is not happening

# Conclusion



- UK trusts create secrecy issues of concern, but not tax ones
- Offshore trusts remain a massive area for fraud of all sorts
- I believe professionals turn a blind eye to this

# Contact



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