



BRENTHURST EXPANSION OF SERVICE OFFERING

# OFFSHORE TRUSTS

## TRUSTS IN MAURITIUS

**INVEST WITH SA'S**

LEADING BOUTIQUE WEALTH MANAGER

RANKED AMONGST THE TOP WEALTH MANAGERS FOR 6 CONSECUTIVE YEARS  
WINNER 2020 & 2017, TOP 3 2022 & 2021



# INDEX

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OFFSHORE TRUST STRUCTURE DEFINITION	3
MAIN CHARACTERISTICS	4 - 5
TRANSFER OF TITLE	6
OTHER FEATURES	7
ASSETS HELD BY AN OFFSHORE TRUST	8
BENEFITS OF SETTING UP AN OFFSHORE TRUST	8
WHY SET UP AN OFFSHORE TRUST?	9
TAXATION OF TRUSTS IN MAURITIUS	10
WHEN WILL A TRUST HAVE ITS CMC IN MAURITIUS?	11-12
<b>EXPANSION OF SERVICE OFFERING   INTERNATIONAL PRESENCE</b>	
BRENT WEALTH   GLOBAL WEALTH MANAGEMENT	13 -14
BRENT CONSULTA   OFFSHORE TRUST	15-16
INTERNATIONAL PROPERTY SERVICES	17
<b>DISCLAIMER</b>	18



# OFFSHORE TRUSTS

## TRUSTS IN MAURITIUS

**Trusts are legal structures used for wealth management purposes. Under Mauritian laws such structures are mainly governed by the Trusts Act 2001 and the Income Tax Act 1995.**

**The settlor of the trust transfers property or assets to the trustees, as per the terms laid out in a trust deed, for the trustees to hold and administer for and on behalf of the beneficiaries.**

### DISCLAIMER

Please note that any application for business is subject to the Code on the Prevention of Money Laundering and Terrorist Financing issued by the Financial Services Commission. The information contained in this document is for informative purposes only and does not intend to be comprehensive or provide tax, legal or any other professional advice in any way.



# MAIN CHARACTERISTICS

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**The essence of the trust concept is the separation of legal and beneficial ownership, i.e., the property is legally owned by the trustees, but is held and administered for the benefit of the beneficiaries.**

The Trusts Act 2001 allows for the creation of a number of different types of trusts, namely fixed, discretionary, protective, purpose and charitable trusts. Commonly, trusts are structured in four broad categories:

- 1. Private:** Includes discretionary, accumulation and maintenance, life interest and fixed interest trusts.
- 2. Corporate:** Includes pension and employee benefit trusts.
- 3. Charitable:** Solely for the benefit of charitable organisations.
- 4. Purpose:** Trusts with no beneficiaries that are established for purposes that are certain, reasonable and possible.

## **Name of choice:**

**The word “trust” need not necessarily be included in the name of the trust.**



## MAIN CHARACTERISTICS

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There is no requirement for a trust to be registered with any governmental body, although many trustees may opt to register the trust deed at the office of the Registrar General in order to obtain a “date certaine” (certain date) which, if required, can be produced as evidence of the existence of the trust and its inception date.

**The settlor – the entity or person who transfers assets to the trust – can be a Mauritian or non-Mauritian resident, but for a non-resident trust the settlor should not be a Mauritian resident.**

**Beneficiaries should be identifiable by name or ascertainable by reference to a class or a relationship to another person, whether living or not at time of creation of the trust.**

**A settlor can also be a beneficiary, but not the sole beneficiary, while a trustee can have beneficial interest in the trust, provided he is not the sole trustee or the sole beneficiary.**

**The number of trustees of a trust shall not exceed four, of whom at least one must be a “Qualified Trustee”.** A Qualified Trustee is defined in the Trusts Act as a management company or such other person resident in Mauritius as may be authorised by the Financial Services Commission (FSC). We can assist by providing you with services as the Qualified Trustee.



## TRANSFER OF TITLE

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### **The trustees would be the legal owner of the assets on behalf of the Trust.**

Bank balances would need to be maintained in a bank account in the name of the trustees on behalf of the trust, preferably locally, but overseas bank accounts are also allowed.

Shares and other negotiable instruments would need to be registered – following procedures and filings applicable in the originating country – in the name of the trustees on behalf of the trust, and the evidence of title (share certificates, etc.) either sent to the trustees, or kept with the custodian overseas under the control of the trustees.

Immoveable property would need to be registered in the name of the trustees on behalf of the trust with the Land Transfer Office, following procedures and filings applicable in the originating country.





## OTHER FEATURES

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**All Trusts are limited to a perpetuity period of 99 years from the date of their creation, unless terminated earlier, with the exception of charitable trusts which may be of perpetual duration and non-charitable purpose trusts which are limited to 25 years.**

There is no other statutory reporting requirement that needs to be made with the authorities for a trust, except for tax returns.

Confidentiality is enshrined in the provisions of the Trusts Act 2001. The Trusts Act 2001 provides for the presence of a protector who can supervise the trustees and ensures that the trust is administered in accordance with the terms of the trust. A protector owes a fiduciary duty to the beneficiaries, or the purpose for which the trust is created. Provisions are also made in the Trusts Act 2001 for letter or memorandum of wishes by the settlor or beneficiaries.



## ASSETS HELD BY AN OFFSHORE TRUST

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- **Portfolios (shares and other stocks) in both quoted and unquoted companies**
- **Investment portfolios**
- **Real and intellectual property**
- **Bank deposits**
- **Life assurance policies issued on the life of the settlor**

## BENEFITS OF SETTING UP AN OFFSHORE TRUST

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- **No documents are made public**
- **Wealth protection**
- **Tailored to specific family requirements**
- **Recognised in all common law jurisdictions**
- **An important tool in international income, capital gains and estate tax planning**
- **Used by corporations for employee benefit plans, retirement and stock option schemes, insurance plans and special financing arrangements.**





## WHY SET UP AN OFFSHORE TRUST?

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- In order to preserve your wealth against uncertainty – political, economic or family.
- In order to transfer your wealth to your heirs in a tax-efficient manner. If you want to plan your estate in order to maximise the benefits of your wealth for family members and others.
- In order to transfer your wealth to your heirs in accordance with your wishes and not in accordance with the laws of the country where you or they reside.
- In order to consolidate the ownership of your assets spread across the world in one location.
- In order to ensure centralised reporting.
- In order to minimise or eliminate estate taxes arising on the death of the settlor.

# TAXATION OF TRUSTS IN MAURITIUS

Prior to the amendment brought by the Finance (Miscellaneous Provisions) Act 2021 ("Finance Act 2021"), a trust could submit a declaration of non-residence with the Mauritius Revenue Authority ("MRA") and thus be exempt from income tax, if it satisfies the following conditions:

1. The settlor is non-resident or holds a Global Business License ("GBL"); and
2. Either all the beneficiaries are non-residents or hold GBLs; or the trust is a purpose trust whose purpose is executed outside Mauritius.

Following the enactment of the Finance Act 2021, the tax exemption available to trusts and foundations has been repealed. Grandfathering provisions, however, exist up to the income year ending on 31 December 2024, which allow trusts set up before 30 June 2021 to continue to benefit from the exemption, unless income derived is in respect of:

1. New assets/activities, such as intellectual property assets, acquired after 30 June 2021; and
2. Specific assets or projects started after 30 June 2021.

**According to Section 73A of the Income Tax Act (ITA), a company incorporated in Mauritius shall be treated as a non-resident if it is centrally managed and controlled ("CMC") outside Mauritius. Statement of Practice P24/21 defines what would constitute 'central management and control' for a trust.**

## WHEN WILL A TRUST HAVE ITS CMC IN MAURITIUS?

1. When the trust is administered in Mauritius and a majority of the trustees reside in Mauritius.
2. When the settlor of the trust is resident in Mauritius at the time the instrument creating the trust is executed, or at such time as the settlor adds new property to the trust; and
3. When a majority of the beneficiaries or class of beneficiaries appointed under the terms of the trust are resident in Mauritius. The number of trustees of a trust shall not exceed four of whom at least one must be a "Qualified Trustee". A Qualified Trustee is defined in the Trusts Act as a management company or such other person resident in Mauritius as may be authorised by the Financial Services Commission (FSC). We can assist by providing you with services as the Qualified Trustee.

**Therefore, a trust will be deemed to be non-resident by virtue of Section 73A of the ITA if it does not meet the criteria for CMC in Mauritius. The non-resident trust will be subject to source-based taxation only, i.e., only on income derived from Mauritius. The non-resident trust will be required to file an income tax return in order to declare and pay income tax on its Mauritius sourced income.**





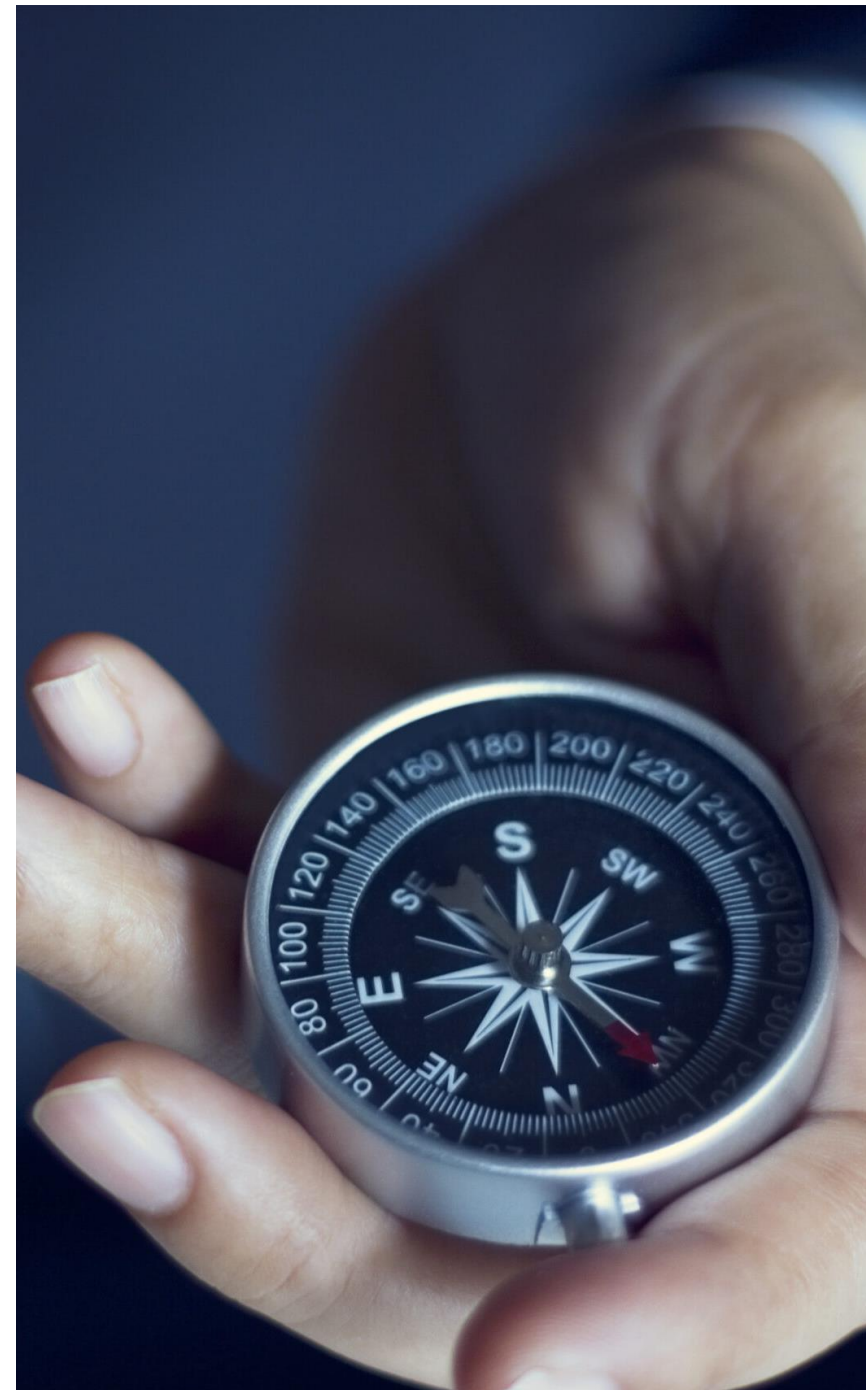
## WHEN WILL A TRUST HAVE ITS CMC IN MAURITIUS?

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A trust is entitled to claim 80 % exemption on specified sources of income (including interest, dividends, etc.) that fall within the Second Schedule to the ITA, provided the conditions of substance are met. Thus, a trust is non-resident if any of the following conditions are satisfied:

1. The trust is administered outside Mauritius and a majority of the trustees are non-resident.
2. The settlor of the trust is non-resident at the time the instrument creating the trust is executed, or at such time as the settlor adds new property to the trust.
3. A majority of the beneficiaries or class of beneficiaries appointed under the terms of the trust are non-resident.

**Therefore, non-resident trusts will not be subject to tax in Mauritius where they will derive only foreign-sourced income. The non-resident trusts will, however, be required to file a nil income tax return confirming that they do not have any Mauritius-sourced income.**





## OFFSHORE TRUSTS & COMPANIES



### **BRENTHURST EXPANDS ITS SERVICE OFFERING:**

#### **BRENT WEALTH | INTERNATIONAL PRESENCE**

Unrestricted Investment Manager License – Mauritius

**The company established an international Wealth Management Office in Mauritius, offering global wealth management services and investment opportunities to clients and, in addition, acquired a stake in a fiduciary management company on the island.**

**Brent Wealth** is a fully licensed Mauritius-based wealth manager with an “unrestricted investment manager license” issued by the Financial Services Commission, equivalent to the South African CAT2 license. This allows us to provide discretionary wealth management services to Mauritian-resident clients.

Brenthurst is currently in the process of applying to the FSCA (South Africa) to license and authorise the Mauritian entity to provide advice to our South African clients.

Clients who emigrate to or reside in Mauritius will be serviced by Brent Wealth. We currently have 2 wealth managers and 5 administrative support staff on the island to serve these clients.





## OFFSHORE TRUSTS & COMPANIES

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### **BRENT WEALTH** | INTERNATIONAL PRESENCE

Unrestricted Investment Manager License – Mauritius

#### **BRENT WEALTH FOCUSES ON THE FOLLOWING SERVICES:**

- ✓ Opening of Mauritius bank accounts
- ✓ Foreign exchange transfers, including SARS and SADC tax clearance
- ✓ Assistance with permits, including resident, retirement and premier visas
- ✓ Commercial and residential investment property services
- ✓ Global wealth management, including offshore financial planning and funds
- ✓ Formation of domestic companies
- ✓ Appointment of directors and registered offices

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SET UP A MAURITIUS TRUST  
TO PROTECT YOUR ASSETS

## OFFSHORE TRUSTS & COMPANIES



### **BRENTHURST EXPANDS ITS SERVICE OFFERING:** **BRENT CONSULTA | MANAGEMENT COMPANY**

IT IS WITH GREAT PLEASURE THAT WE ANNOUNCE THE ACQUISITION OF A MAJOR STAKE IN A MAURITIAN TRUST AND MANAGEMENT COMPANY, NOW RENAMED **BRENT CONSULTA**.

**Brent Consulta** is licensed by the Mauritius Financial Services Commission to provide an array of financial and fiduciary services to a diversified client base, which includes financial institutions, real estate multinationals, private equity firms, investment managers, high-net-worth individuals, SME businesses and retailers, amongst others.

The executive team comprises of four executive directors with expertise in operations, marketing and compliance with a combined 100 years of experience in the financial services industry.

Brent Consulta has two offices in Mauritius, one in **Grand Baie** in the north and the other in **Black River**. This enables Brent Consulta to offer services to the main markets for expats from South Africa and around the world.



SET UP A MAURITIUS TRUST  
TO PROTECT YOUR ASSETS

## OFFSHORE TRUSTS & COMPANIES

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### **BRENT CONSULTA** | MANAGEMENT COMPANY

**CLICK HERE** >> Brenthurst acquires major interest in Mauritian Trust Company

#### **BRENT CONSULTA FOCUSES ON THE FOLLOWING SERVICES:**

- ✓ Formation of international trust structures and foundations
- ✓ Administration of all companies and trusts
- ✓ Establishing domestic and global business companies
- ✓ Permits for residency, investment and retirement
- ✓ Business licenses and visas
- ✓ Governance and secretarial services
- ✓ Tax risk and compliance administration

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# INTERNATIONAL PROPERTY SERVICES

Mauritius is growing in popularity as an investment, relocation and retirement destination for South Africans. <https://brentwealth.com/property-collection/>

Brenthurst Wealth Management offers Mauritian property services to its clients through a Mauritian based partnership.

We offer our clients international property services which include the acquisition, letting, furnishing and maintenance of the property.

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