

## Cyprus trust law reform finally arrives

The Cyprus International Trust Law has been reformed with the approval of the island's House of Representatives of long-awaited amendments to the 1992 Act.

The new provisions predict that the settler must not be a Cyprus tax resident in the year preceding the year of creation of the trust while it also removes the prohibition on resident beneficiaries and on ownership of immovable property in Cyprus.

A further amendment excludes the laws of any other jurisdiction. Any dispute relating to Cypriot international trusts will be determined by the laws of Cyprus without reference to any other laws.

Settlors will also be able to create reserved-powers and settlor-interested trusts. This new provision is similar to those in Jersey and Guernsey trust law, giving settlors flexibility to adapt to changes in circumstances or objectives.

The amendments also extend the investing powers of trustees, allowing them to invest as freely as if they were beneficial owners.

Moreover, the new law includes a provision authorising trustees to invest in property both in Cyprus and overseas, including shares in Cyprus-incorporated companies. The 1992 Act's prohibition on investments within Cyprus is thus abolished, which should boost the island's property market.

Other provisions in the new bill abolish the ban on perpetuities; redefine charitable purposes to match the public benefit test now used in England; and set out rules for determining choice of jurisdiction.

The new law modernizes the existing legislation and puts Cyprus on the map of the reputable Trust jurisdictions which can serve the requirements of the international clients in the content of the complex business social environment.

As a result to this, Cyprus now has the legislative system to convince the international business world which extensively uses the Cyprus companies for international operations to strongly consider Cyprus for Trusts as well; especially in combination with the other tax benefits that Cyprus offers and the high professional services available.

### Europe's tax commissioner insists UK and Germany back down on Swiss deals

European Union tax commissioner Algirdas Semeta has publicly ordered Germany and the UK to renegotiate their bilateral withholding tax agreements with Switzerland.

In a letter written to the Danish EU presidency, Semeta says the agreements are undermining the EU's savings tax strategy. EU policy, he claims, states: "Member states are free to enter into international agreements, be they bilateral or multilateral, [but] such agreements must not include any aspects which overlap with areas in which common action by the European Union has been taken or is envisaged."

"The principle of the exclusive competency of the EU vis-a-vis the exterior must be respected", he adds.

The EU of course already has an agreement with Switzerland on the reporting of cross-border interest payments and is currently trying to negotiate an extension to it. But the Swiss-UK and Swiss-German agreements allow Swiss banks to deduct a withholding tax from interest payments made to anonymous UK and German clients, instead of disclosing the payments to the clients' home governments.

The Swiss federal government appeared surprised by Semeta's action. Finance minister Eveline Widmer-Schlumpf told a Swiss radio station that she did not understand Semeta's intentions. According to Widmer-Schlumpf, the Commission has previously accepted that EU member states have authority to make bilateral tax treaties with third countries (and in fact they do it all the time). Neither Germany nor the UK had plans for any major revisions, she said.

Semeta himself said the purpose of the letter - sent on Monday to Danish Economy Minister Margrethe Vestager - is to prevent other EU countries exposing themselves to infringement procedures. "Member states should refrain from negotiating, initiating, signing or ratifying agreements with Switzerland, or any other third state, insofar as any aspects regulated at EU level might be touched upon," he said. "Concerning direct taxes and the future, any bilateral agreement should include a carve-out of areas already covered by existing EU instruments and areas included in proposals for their modification."

In fact no proceedings have been brought against Germany or the UK over their agreements (though the Commission has threatened them). It is not clear what procedure would be used, as direct taxation is accepted to be the sole responsibility of member states as long as they do not breach the EU Treaty.

Semeta added that the Commission has held "very constructive talks" with Germany and the UK regarding modification of their Swiss agreements. "The Commission's view is that the agreements very clearly have to be changed and that is what Germany and the UK are ready to do," he told a press conference on Monday. "We explained to our colleagues [in Germany and the UK] what has to be changed in order to make them comply with EU legislation [and] I am confident that a satisfactory solution will be found."

## Legal Disclaimer

Globalserve Consultants Ltd is the official administrator of GIN and has taken all reasonable care to ensure that the information herein contained are accurate on the stated date of publication, however, it disclaims all express and/or implied warranties with regard to the accuracy of the information contained in the published materials.

## News

**23-24 April OCCI BUSINESS FORUM**  
Kharkov & Donetsk Phani Schiza Antoniou, Managing Director, Globalserve Consultants Ltd

**9-11 May STEP CYPRUS LIMASSOL**, participant Phani Schiza Antoniou, Managing Director, Globalserve Consultants Ltd

**29-30 May STEP ISRAEL, TEL AVIV**  
Annual Conference participant Phani Schiza Antoniou, Managing Director, Globalserve Consultants Ltd

[www.globalserve.com.cy](http://www.globalserve.com.cy)

## Globalserve Profile

**Globalserve Consultants Ltd**, is engaged in the area of international tax planning. We incorporate companies from a variety of 23 jurisdictions while focusing on the Cyprus Company which its use is very effective as an onshore jurisdictions with an excellent use towards international tax planning.