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VISTA (Virgin Islands Special Trusts Act)

A trust for settlors who wish to retain control over the administration management and devolution of underlying companies.

The VISTA trust (that is to say a trust created and subject to the Virgin Islands Special Trusts Act 2003) is a modern form of trust for holding shares in companies where it is intended that

- a) the shares will be held indefinitely and
- b) the trustee is not intended, other than in special and defined circumstances, to intervene in the conduct of the affairs of the underlying company or companies.

Normally a trustee must act as a “prudent investor” in respect of shares it holds in a company. This will require the trustee to monitor the company’s management and performance. It may also require the trustee to sell the shares to maximise the financial advantage of the trust assets, or diversify risk. These trustee duties can easily conflict with the interests of ‘family’ trading and investment companies.

VISTA removes these conflicts and problems by enabling clients to create VISTA trusts under whose terms the trustees have no duties to interfere in the management of the company or realise the latent value of the shares.

Summary of VISTA’s main provisions

1) The shares of a company held by a VISTA trust may be held indefinitely.



- 2) The directors or other parties of the underlying company can manage the affairs of the company without interference from the trustee.
- 3) The application of VISTA is to shares in BVI companies only.
- 4) Shares held subject to VISTA are held on trust to retain the shares.
- 5) Notwithstanding the trust to retain, the trustee is given power (subject to the precise terms of the trust) to dispose of the shares with the consent of the directors, or the settlor, or any other person nominated in the trust instrument.
- 6) The trustee is expressly prohibited from exercising its voting power or other powers attaching to the shares so as to interfere in the management of the company or the conduct of the business.

7) Exceptionally, if an “interested person” e.g. a beneficiary, calls upon the VISTA trustee to intervene in the company’s affairs then the trustee must do so if the interested person has a “permitted ground of complaint” which must be specified in the trust instrument. In practice this is likely to be unusual.

8) The settlor can lay down rules regulating the appointment, removal and remuneration of directors of the company owned by the VISTA trust. The rules, contained in the VISTA trust, could for example nominate a successor director (if the settlor is the director) on the settlor-director’s death.

9) The terms of the VISTA trust can call on the trustee to transfer the shares of the underlying BVI company to specified beneficiaries on the death of the settlor. In this way, the shares can pass to family members on the death of the settlor without the settlor therefore having to make a will and this measure avoids lengthy and costly probate issues, as well as tax advantages and peace of mind.

When to set up VISTA trusts

1) Where the trust assets or underlying assets of a trust are to comprise shares in a trading company.

2) Where the settlor is not prepared to relinquish control over administration and management of the company.

3) Where the underlying assets of the trust comprise an unconventional investment portfolio e.g. ships, aeroplanes, futures, options and assets of a commercial nature.

4) Where the settlor wishes particular assets not to be disposed of e.g. family heirlooms or family companies.

5) Securitisations and off-balance sheet structures.

VISTA trusts and non-BVI companies

It has already been noted that VISTA can only apply (directly) to BVI company shares.

If shares in non-BVI companies and/or other assets are to be held, these should be held by a BVI company the shares of which are held directly by the trustee of the VISTA trust.

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