

LEGAL UPDATE:

Family Planning with a Bahamas Private Trust Company

Structure Goals

The client desires to implement a family trust structure utilizing a Private Trust Company as trustee. The objectives of the trust structure include:

- Protection of the beneficial owner and assets
- Protection of information
- Provide a framework for the rules for the succession
- Securing the family legacy, protecting the wealth for future generations of the Family
- Create a vehicle that establishes family and business governance in terms of succession and wealth transfer
- Protect and order family assets within an effective fiscal and legal structure

Private Trust Company (“PTC”)

A PTC is a company formed for the express purpose of acting as trustee of a specific trust, or group of trusts. As such, an individual can retain control over the administration of his/her own trusts by establishing a PTC to act as trustee for these trusts. Where the individual is so minded, the PTC can also act as trustee for trusts settled by family members. In The Bahamas, a PTC does not carry on trust business and is therefore exempt from licensing requirements; however, a regulated Bahamian service provider must provide certain functions such as anti-money laundering and due diligence reviews.

Family Planning with a Bahamas Private Trust Company

A PTC is established as a corporation, and thus it has to issue shares to a shareholder. Historically, and in most international financial centres with PTC legislation, the use of a special purpose trust to hold the shares is a common structuring option. This structuring option utilizing a purpose trust adds extra expense to the structure as a purpose trust generally requires an institutional trustee. The reason most families utilize a PTC is for control, influence, privacy, continuity, flexibility, education and empowerment, and cost efficiency.

The Bahamas identified this structuring limitation utilizing PTCs and in 2011 passed the Executive Entities Act in 2011 creating the Bahamas Executive Entity (the "BEE"). The BEE is an entity without beneficial owners created to undertake only certain prescribed executive functions. One of those functions is to hold the shares of a PTC, therefore eliminating the need for a purpose trust and institutional trustee, reducing the overall costs of the structure.

General Planning Options

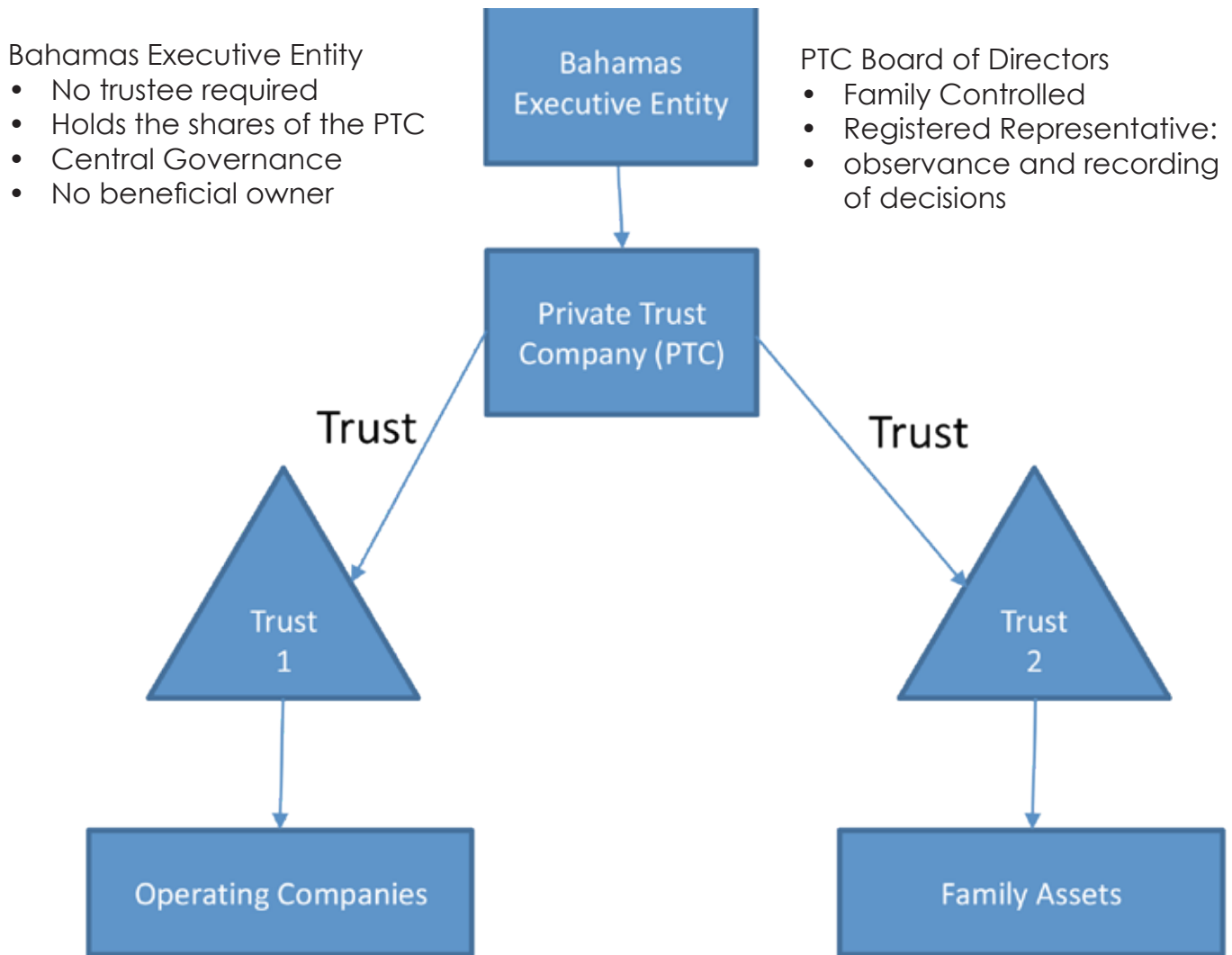
In the current global environment it is my recommendation to ensure the goals of the client and structure as described above are met, that all elements of the structure be centralized in one jurisdiction.

The development of financial transparency and the chipping away of legitimate financial privacy has emphasised the planning in a single jurisdiction. With service providers and elements of a structure in multiple jurisdictions, it is difficult to ensure consistency throughout the structure of treatment and reporting.

If it is decided that The Bahamas should be the appropriate jurisdiction for all of the structure, each element of the structure can be re-domiciled to The Bahamas and amended to be governed under Bahamian law.

Family Planning with a Bahamas Private Trust Company

Bahamas Structure



The material difference in The Bahamas as a jurisdiction for the above structure is the use of the BEE to hold and govern the PTC. Utilizing a BEE instead of a purpose trust

eliminates the cost and complexity of an institutional trustee in the structure and allows the PTC to function as originally intended, privately by the family unit.

GT | NEWS & INSIGHTS

**Ryan Pinder**

is a partner in the law firm of Graham Thompson and member of the firm's Corporate and Financial Services Practice Group. His practice focuses on private client planning and structures, and regulatory and

licensing matters for financial services institutions. Ryan's private client practice includes specialization in financial services solutions, planning and wealth management. He also advises private clients on matters related to banking, corporate and commercial law, investment funds, securities law, capital markets, taxation, trusts and estate planning and structuring.

Ryan's institutional practice comprises regulatory matters including coordination of license applications with financial services regulators in The Bahamas; inspections and investigations, and cross-border inquiries. He also advises on commercial transactions, including re-organisations, mergers and acquisitions. Ryan is a US Board-Certified Tax Attorney and has been recognised by Chambers and Partners in the High Net Worth, Off-shore Trusts sector. A former Minister of Financial Services and Trade in The Bahamas Government (2012 – 2015), Ryan continues to serve in various policy and legislative advisory capacities on recent legislative and regulatory changes in the financial services sector in The Bahamas.

L. Ryan Pinder
Partner
Graham Thompson
T: +1-242-322-4130
Email: lrp@gtclaw.com



info@gtclaw.com | www.grahamthompson.com

