

SPECIAL TRUST

Case Study: An Argentinian Family Establishes a Special Trust Structure in the Turks and Caicos Islands (TCI)

CLIENT BACKGROUND

Alejandro Fernandez, a successful businessman from Argentina, owns a large-scale dairy operation with a logistics arm that distributes products across Latin America. Alejandro's primary objectives are:

- **Preserve Operational Control:** Ensure the existing Board of Directors continues managing the family business without interference from children or other family members if he dies or becomes incapacitated.
- **Succession Planning:** Pass the business seamlessly to future generations while avoiding probate delays.
- **Asset Protection:** Safeguard the family wealth from political instability, economic volatility, and creditor risks in Argentina.
- **Tax Efficiency:** Establish the structure in a tax-neutral jurisdiction whilst observing all applicable Argentinian laws and regulations.

THE PROPOSED SOLUTION: A TCI SPECIAL TRUST

Under TCI Trust legislation (similar to a VISTA Trust in the BVI) provisions exist to allow a trustee to hold shares in a family business while not being obligated to monitor or interfere in the management of the operating company (Part V, p.42 of the TCI Trusts Ordinance 2016).

The structure operates as follows:

1. TCI Special Trust:

- Alejandro, as the Settlor, transfers the shares of the family business into a TCI Special Trust as set out in Part V ('STO') of the TCI Trust Ordinance.

- The trust registers with the Argentine Companies' Registrar and becomes the legal owner of the company shares, but under the STO, the trustee has no duty to interfere in the day-to-day operations of the company.
- The trust does not become the owner of the underlying land.

2. Operating Company:

- The existing Board of Directors of the family's dairy and logistics business retains full operational control.
- Business continuity is preserved, as the trustee does not disrupt the management or interfere in strategic decision-making.

3. Beneficiaries:

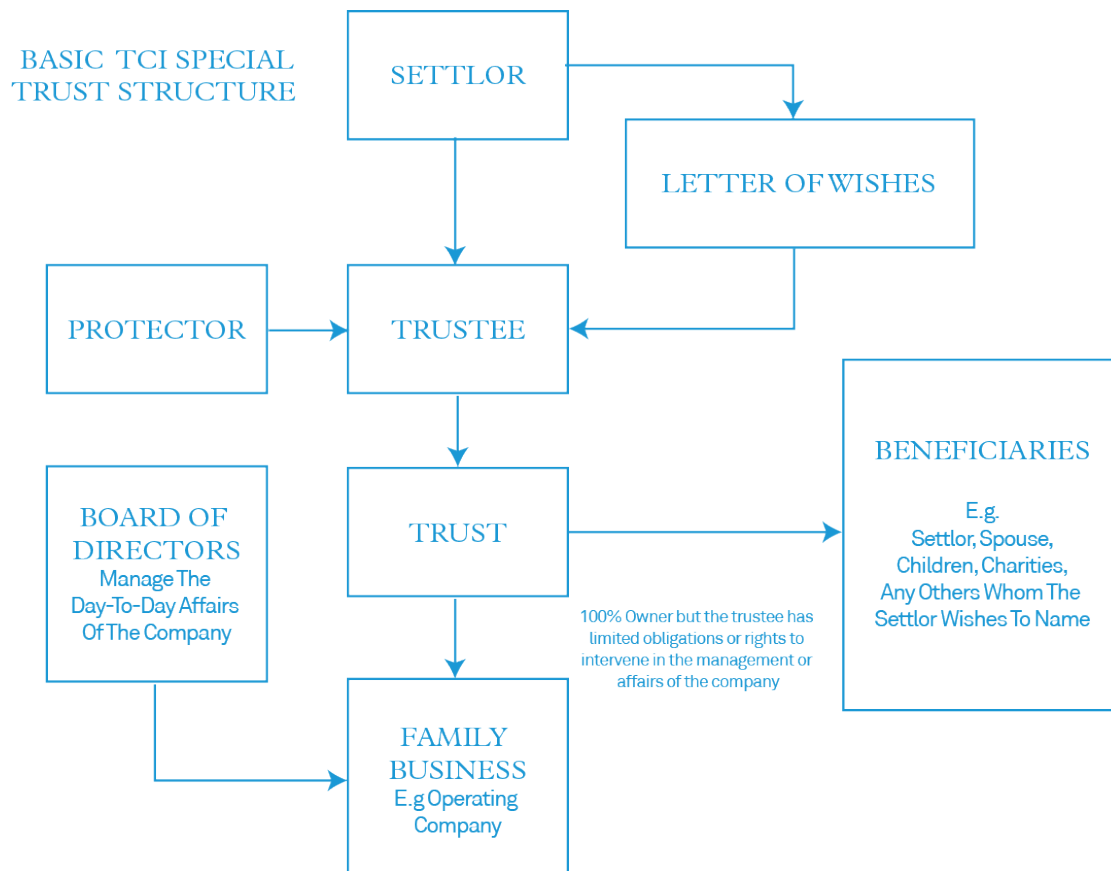
- The trust can be structured to benefit Alejandro, his spouse, and/or his children.
- Where Alejandro and his wife are beneficiaries of the trust, it may be seen as transparent for Argentinian income and wealth tax purposes and tax advice should be taken.

4. Protector Role:

- A Protector is appointed to provide oversight and ensure the trustee adheres to Alejandro's long-term intentions.
- The Protector would usually be a trusted professional such as a firm of accounts or lawyers, appointed by Alejandro in the trust deed.

5. Letter of Wishes:

- Alejandro provides a non-binding Letter of Wishes that offers guidance to the trustee on matters such as distributions, succession plans, and management objectives for the family business.



KEY BENEFITS OF THE TCI SPECIAL TRUST FOR THE FERNANDEZ FAMILY

1. Preservation of Business Control:

- The Board of Directors retains full operational control of the dairy and logistics business.
- Under the terms of the STO, the trustee's role is strictly limited to holding the shares, with no obligation to intervene in management.

2. Seamless Succession Planning:

- The TCI Special Trust enables Alejandro to pass ownership of the family business seamlessly to the next generation without probate delays.

- Through the Letter of Wishes, Alejandro can outline his wishes for asset distribution and future governance while ensuring flexibility for changing family needs.
- There are other options for even greater Settlor control in the TCI legislation, such as a purpose Trusts whereby Alejandro could, if he wished, appoint himself as enforcer of a special purpose trust.

3. Asset Protection:

- By settling the family business into the TCI Special Trust, the assets are legally protected from creditors, political risks, and economic volatility in Argentina.
- The structure creates a legal barrier between the business and external claims, safeguarding family wealth for future generations.

4. Tax Efficiency:

- The Turks and Caicos Islands provide a tax-neutral environment with no income tax, capital gains tax, or estate tax.
- The structure can minimize exposure to Argentine taxation while ensuring compliance with international reporting standards.

5. Governance and Oversight:

- Appointing a Protector ensures independent oversight, safeguarding the family's interests and ensuring the trustee adheres to the trust's purpose.
- The Letter of Wishes allows Alejandro to provide clear guidance without imposing rigid terms, and maintaining flexibility (or he could seek greater control whilst he is alive and has capacity, if he so wishes).

6. Confidentiality:

- The TCI's strict privacy laws and absence of public trust registers ensure confidentiality for the trust, its beneficiaries, and the family business.

7. Business Continuity:

- The Special Trust preserves business continuity by keeping the management of the dairy and logistics business with the Board of Directors, ensuring stability and long-term growth.

IN SUMMARY

By settling the shares of the family dairy and logistics business into a TCI Special Trust, Alejandro Fernandez achieves his goals of seamless succession planning, robust asset protection, and tax efficiency. The trustee holds the shares without any obligation to intervene in the management of the operating company, ensuring the Board of Directors retains full control of day-to-day operations.

This structure not only safeguards the Fernandez family's assets from political and economic risks in Argentina but also enables Alejandro to preserve operational continuity and ensure his wealth is passed efficiently to future generations. With professional trustees, the appointment of a Protector, and clear guidance through a Letter of Wishes, Alejandro secures his legacy while maintaining flexibility and governance for the family business.

The Turks and Caicos Islands' tax neutrality, confidentiality, and strong legal framework make this structure a robust solution for the Fernandez family's long-term wealth preservation and business continuity.

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