

SWIFT SOLUTIONS



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Forced Heirship

Avoiding Forced Heirship

Forced heirship rules in many civil law countries are an ongoing source of family problems which have frustrated proper estate planning and divided families into warring camps for generations.

While there are a number of very good solutions for this problem, one of the most popular is the use of a **foreign trust structure** to hold the assets indefinitely without ever triggering heirship rules since a trust never *dies*.

A trust is a common law vehicle that was first used during the Crusades. Though it has many variations of form and exists in many jurisdictions, **trust law is universally considered to be well-settled**—stable and predictable. Were this the only consideration, as trust could be created in any one of dozens of jurisdictions.

However, because of increasing concerns with issue of money-laundering, tax-evasion and terrorism, the choice of a jurisdiction becomes increasingly important. As such, **The SWIFT Financial Group** recommends to its clients that any such structure be created in jurisdictions that are neither generally considered to be tax havens, nor on international black lists.

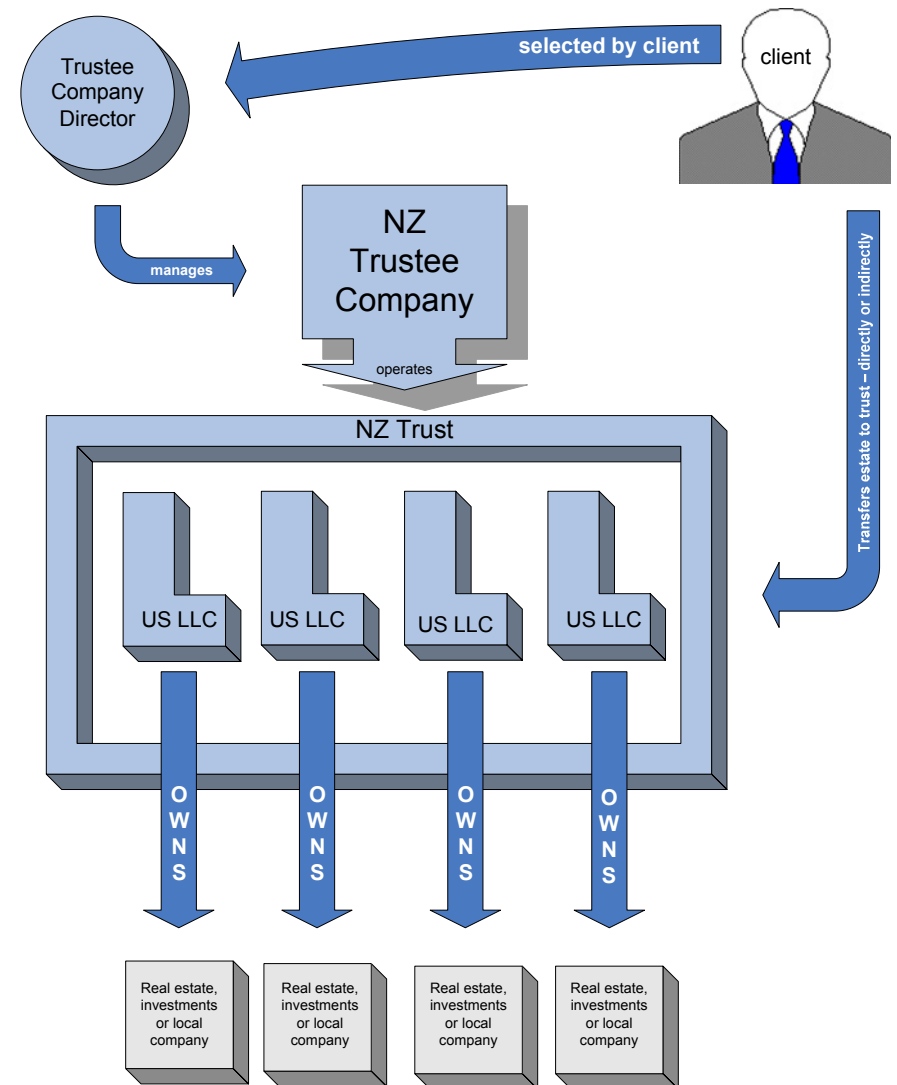
With these concerns in mind, a New Zealand Trust structure which owns subsidiary Delaware-US limited liability companies, is an excellent solution. **Neither the US nor New Zealand (NZ) are considered to be tax-havens, though they both offer considerable tax and asset protection advantages for those who are neither citizens nor residents.**

Properly organized, a NZ Trust is entirely tax-free for non-residents of New Zealand. Furthermore, a tax-free private NZ trustee company can be established to operate the NZ Trust.

However, since civil law jurisdictions generally do not recognize trusts, a different vehicle, wholly-owned by the NZ Trust, is required to actually own the assets. The perfect vehicle for this is the Delaware-US limited liability company (LLC). Properly organized, a Delaware LLC which does no US-based business, will

not only be tax-free, but will not be required to even file a US tax return, even if it has a tax ID number.

Such a structure might look like this:



Of course, every detail must be properly handled in order to ensure that the entire structure functions as the client intends, without triggering any adverse tax or heirship issues. As such, each such structure is tailor-made for each individual client or situation.