

 Trust-1 will not report on the settlor because the equity interest is held by a nonparticipating Custodial Institution which is an FI, an excluded reportable person.

III. New trust appoints beneficiary as the SPV nonparticipating Custodial Institution The non-participating Custodial Institution has no reporting obligations

• The Custodial Institution is not a Professionally Managed Investment Entity and hence will not be deemed, treated or regarded as a reportable Passive NFE, subject to lookthrough.

of this article

• Are settlors of Singapore irrevocable trusts screwed because unexpectantly, the entire trust property, including growth since settlement, will be reported against their name. • Worse by definition you are dealing by default with irrevocable trusts, so the settlor cannot just close shop and dissapear into the night... Or can he skeddale?

Decant/re-settle Singapore irrevocable trusts Resettle/decant the irrevocable trust into a non-participating SPV Custodial Institution

Original trustees retain the business and clients

through for Controlling Perons.

beneficiaries

• The Custodial Institution settles a new trust with existing original trustees

 The non-participating Custodial Institution has no reporting obligations • Trust-2 will not report on the settlor because the equity interest is held by a nonparticpating Custodial Institution which is a FI which is an excluded reportable person. Note the Custodial Institution is not a Professionally Managed Investment Entity, hence will not be deemed, regarded or treated as a reportable Passive NFE, subjectt o look

Why resettle a trust? 1. Clarifying / fixing - change the terms used in the trust if they were ambiguous, or law 2. Special needs if beneficiary becomes needy of special need terms 3. **Protect beneficiaries** from creditors 4. Merge trusts - to control assets of multiple trusts if trusts were set up for multiple

5. Change governing law of trust Can an irrevocable trust be resettled? 1. Unless the deed terms prohibit the resettlement, the trust can likely be resettled 2. It depends on whether there is a wide power of appointment contained in the deed, most

modern trust deeds will contain wide powers to appoint on further trusts

4. A distribution is made and the receiver of assets settles the new trust

3. Usually it is the protector, or trustee plus beneficiaries that can resettle the trust

Can the irrevocable trust be re-settled into a trust which is a SPV **Custodial Institution trust?**

 Decant the trust to a new non-participating SPV Custodial Institution trust Subsequently, the SPV Custodial Institution trust settles a new trust in Singapore, or anywhere else. Maintain the SPV Custodial Institution characteristics of the SPV Custodian (e.g. hold dormant company on behalf of beneficaries and the earn custodial fees, such as financial advice to beneficiaries on assets that may potentially be held in the future. Read "The illogical and hilarious custody-related fee to qualify as a CRS Custodial Institution" • Custodial fees may be collected by unrelated parties. Read "3rd parties can collect custodial fees for CRS. There is no attribution/connected test of income as legislated

Never seen this before, is it legal? A Singapore based UK lawyer has commented that:

by several CRS jurisdictions".

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• "Might encounter some conceptual difficulties applying this to a settlor - trust scenario". • "The beneficial interest in whatever asset is was originally settled was held by the beneficial owner and therefore that is the true settlor and not the legal title holder, or custodian, and report accordingly".

Mark Morris

CRS and CARF expert. No, truly.

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