

Bahrain
JerseyBermuda
LondonBVI
MauritiusCayman
SeychellesHong Kong
Zurich

July 2009

Bermuda to remove Perpetuities limitation

The Bermuda Government recently passed the Perpetuities and Accumulations Act 2009 (the “**Act**”). This Act will come into operation on 1 August 2009. The Act is designed to modernise Bermuda’s laws relating to the application of the rule against perpetuities to wills and trusts. This will enable Bermuda to continue to be a premier location for international trust business.

In simple terms, the rule against perpetuities is intended to cause property to become completely vested in the hands of a beneficiary within a set period of time of the gift or bequest. This will ensure that property is not “tied up” for an indefinite period without full ownership passing to an individual. Currently, the maximum perpetuity period or “life” allowed for Bermuda trusts is 100 years.

The Act will abolish the rule against perpetuities for all trusts formed after 1 August 2009, other than trusts of land in Bermuda. A Bermuda trust formed after 1 August 2009, may be used to “tie up” property (except Bermuda land^[1]) indefinitely, permitting persons, including wealthy families, to establish perpetual dynastic Bermuda trusts that may be more beneficial from an estate and tax planning perspective. The abolition of the perpetuity limitation will also make Bermuda trusts more attractive for commercial applications where the business purposes or objectives will last longer than 100 years.

The Act is not retrospective but does contemplate that a trustee or other interested party may wish to apply to the Bermuda courts to extend the trust period of a pre-August 2009 trust to more than 100 years. An individual who has already signed (executed) his or her Will, will need to re-execute his or her Will in order to benefit from the Act.

The Act also abolishes restrictions on accumulation of income by trustees. Allowing trustees to accumulate trust income for such period as they think appropriate, given the particular needs of the trust in question.

The benefits of the Act will ensure that Bermuda remains a leading international trust jurisdiction.

[1] The Government has decided not to abolish the rule against perpetuities in relation to trusts of Bermuda land. Trusts of Bermuda land can only be established for a maximum period of 100 years.

This eAlert is published by APPLEBY and is not intended to be, nor should it be used as, a substitute for specific legal advice on any particular transaction or set of circumstances. It does not purport to be comprehensive or to render legal advice and is only intended to provide general information for the clients and professional contacts of Appleby as at the date hereof.

For further information, please contact:



Randall Krebs

Bermuda
Tel: +1 441 298 3274
Email: rkrebs@applebyglobal.com



Lorraine Welch

Bermuda
Tel: +1 441 298 3210
Email: lwelch@applebyglobal.com

Global Private Client & Trust Contacts

Timothy Faries	Practice Group Head	Bermuda	+1 441 298 3216	tfaries@applebyglobal.com
Randall Krebs	Local Practice Group Head	Bermuda	+1 441 298 3274	rkrebs@applebyglobal.com
Naresh Chand	Local Practice Group Head	BVI	+1 284 852 5313	nchand@applebyglobal.com
Carlos de Serpa Pimentel	Local Practice Group Head	Cayman	+1 345 814 2082	cpimentel@applebyglobal.com
Frances Woo	Local Practice Group Head	Hong Kong	+852 2905 5720	fwoo@applebyglobal.com
Graham Boxall	Local Practice Group Head	Jersey	+44 (0)1534 818 022	gboxall@applebyglobal.com
Michael Stanford-Tuck	Local Practice Group Head	London	+44 (0)20 7469 0528	mstanford-tuck@applebyglobal.com
Malcolm Moller	Managing Partner	Mauritius	+230 203 4301	mmoller@applebyglobal.com
Malcolm Moller	Managing Partner	Seychelles	+248 225 283	mmoller@applebyglobal.com
Jonathan Vanderkar	Managing Partner	Zurich	+41 44 214 6522	jvanderkar@applebyglobal.com
Jeanne Bartlett	Managing Director	Bahrain	+973 3883 0493	jbartlett@applebyglobal.com

Offices



Bahrain Suite 2215 Level 22 West Tower Bahrain Financial Harbour King Faisal Highway Manama Kingdom of Bahrain Tel +973 1750 2848 Fax +973 1750 2847	Bermuda Canon's Court 22 Victoria Street PO Box HM 1179 Hamilton HM EX Bermuda Tel +1 441 295 2244 Fax +1 441 292 8666	British Virgin Islands No 56 Admin Drive Wickhams Cay 1 PO Box 3190 Road Town Tortola VG 1110 British Virgin Islands Tel +1 284 494 4742 Fax +1 284 494 7279	Cayman Islands Clifton House 75 Fort Street PO Box 190 Grand Cayman KY1-1104 Cayman Islands Tel +1 345 949 4900 Fax +1 345 949 4901	Hong Kong 8 th Floor Bank of America Tower 12 Harcourt Road Central Hong Kong Tel +852 2523 8123 Fax +852 2524 5548
Jersey PO Box 207 13-14 Esplanade St Helier Jersey JE1 1BD Channel Islands Tel +44 (0)1534 888 777 Fax +44 (0)1534 888 778	London 2 nd Floor 2 Royal Exchange Bldgs London EC3V 3LF United Kingdom Tel +44 (0)20 7283 6061 Fax +44 (0)20 7469 0540	Mauritius 8 th Floor Medine Mews La Chaussée Port Louis Mauritius Tel +230 203 4300 Fax +230 210 8792	Seychelles Level 2B Caravelle House Manglier Street Victoria, Mahe Seychelles Tel +248 225 281 Fax +248 225 282	Zurich Bahnhofstrasse 52 CH-8001 Zurich Switzerland Tel: +41 44 214 6525 Fax: +41 44 214 6524