

BELIZE

A Haven for Privacy and Profits



by Don Ediger

www.InternationalLiving.com

Belize: Haven for Privacy and Profits
An International Living Report

Author: Don Ediger

Designer: Marsha Swan

© Copyright 2009, International Living Publishing Ltd., Elysium House, Ballytruckle, Waterford, Ireland. All rights reserved. No part of this report may be reproduced by any means without the express written consent of the publisher. The information contained herein is obtained from sources believed to be reliable, but its accuracy cannot be guaranteed. Registered in Ireland No. 285214.

Your Haven for Privacy and Profits

Today, when more governments are snooping on citizens and more courts are seizing property, Belize stands out as one of a dwindling number of safe havens where you can still ensure privacy and protect your assets.

In the early 1990s the government of Belize consulted with professionals in Guernsey and several other top safe havens before drafting legislation that would enable Belize to achieve similar status. Legislation included the International Business Companies Act, the Trusts Act, and the Offshore Banking Act, all of which have moved Belize to the forefront of the international financial service jurisdictions.

Moreover, to attract retirees from other countries, Belize also adopted a “qualified permanent residence law” that allows retirees to enjoy a tax-free lifestyle. For a while, the U.S. was at odds with some of Belize’s safe haven policies, but in 1997, Belize enacted offshore legislation designed to attract international banks to Belize.

Coupled with this legislation were bank-privacy laws that contained U.S.-style “know-your-client” provisions to prevent money laundering. By adopting these rules, Belize ensured that the U.S. had to take it off a list of countries barred from U.S. foreign aid and a variety of trade preferences.

As they benefited from Belize’s policies, the number of banks and investment houses, trust companies, accounting firms, and offshore specialists doing business in Belize has grown dramatically, as have the dollars deposited in both the private banking system and the Belize Central Bank. Not only do its privacy laws make Belize an attractive place to bank—so does its relative affordability. In the safe haven of the Cayman Islands, for instance, a first-class corporate setup runs from \$12,000 to \$15,000. In Belize the cost can be as little as \$700.

Individuals and companies establishing themselves in Belize are finding a government committed to privacy and a no-tax system. These advantages, combined with an English-speaking population and laws similar to our own, make Belize one of the world’s top tax havens—a truly safe locale for your money.

Cut taxes by incorporating

The International Business Companies Act gives foreigners an opportunity to incorporate in Belize and enjoy huge advantages. IBCs are exempt from taxes. There are no Belizean citizenship or residency requirements for directors, officers, or shareholders of IBCs. Meetings of shareholders and directors can be held in any country and may be attended by proxy.

IBC law requires only one shareholder and one director, each of which can be either an individual or a corporation. Your IBC is not required to have staff members or to establish an office in Belize. And IBCs are not subject to any foreign exchange controls. IBCs can be used for financial management, investment holding, ship or property ownership, shared ownership of other companies, leasing of assets, copyrighting and licensing, and general commercial trade.

IBCs are, however, restricted from engaging in certain activities. They're not allowed to do business with Belizean residents, own real estate in Belize, engage in a banking or insurance business in Belize, or act as an agent for another Belizean IBC.

Incorporation fees are low, and Belizean IBC laws aren't complex. For an IBC with authorized capital of \$50,000 or less, the incorporation fee is usually \$700, plus registered office/agent fees of \$300 a year. Fees typically include the arrangement of the incorporation of the company, the certificate of incorporation and preparation of the minutes of the first meeting of the directors. To register an IBC, a memorandum and articles of association must be submitted to the registrar via a registered agent.

Information on IBCs is available from attorneys and the International Business Companies Registry, tel. +501 223-5108 and +501 223-5120; website: www.ibcbelize.com.

User-friendly trust laws

Thanks to the Trusts Act of 1992, Belize has become a premier jurisdiction for asset protection trusts. Today, Belize is a haven that offers rock-solid protection of assets that are transferred into a Belizean Trust. It's also one of the few trust jurisdictions in the world that offers protection from court action initiated by creditors that might challenge your transfer of property into a trust.

In the absence of actual fraud in the creation of a trust, the assets of a Belizean trust cannot be attached to satisfy the judgment of a foreign court. Belizean trust laws have been tested and proven solid. In one landmark case, "Securities and Exchange Commission v. Banner Fund International," the Supreme Court of Belize upheld the Trusts Act, and the SEC was stymied in its attempt to acquire confidential trust documents in Belize.

This decision sends a clear signal that Belize can be relied on to provide financial services in an environment that is both confidential and capable of protecting assets at a high level.

Under Belizean legislation, you can establish a trust for the benefit of any person or any charitable or non-charitable purpose; your trust can also benefit a combination of people and purposes. To structure your Belizean trust deed (the “trust deed” is a legal, private agreement between the settler [you], a protector, and a trustee), you must answer the following questions:

- Who is the trustee, and who can order his replacement or retirement?
- What are the trustee’s powers and restrictions?
- What are the assets of the trust, and how are they to be managed?
- Who is to benefit from the trust?
- Who is the protector; what are this person’s powers and duties; and what are the mechanisms for the protector’s removal, resignation, or succession?
- What jurisdiction provides the governing or proper law for the trust?
- What is the procedure for adding or withdrawing assets?
- What is the procedure to amend the trust?

There are two principal types of trusts to consider—a discretionary trust and a purpose trust. For many years the discretionary trust was the more popular option, largely because of its flexibility.

Advantages of discretionary trusts

Privacy: The most important benefit of a Belizean trust is the extent to which Belizean law protects the secrecy and anonymity of the settler, trustee, beneficiaries, and assets. The laws governing financial confidentiality in Belize, based on English common law, are specific, aggressive, and effective. Although you are not required to put the terms of a trust in writing, attorneys working in Belize recommend you do so. (A trust involving Belizean land is the exception; you cannot enforce such a trust unless it is expressed in writing.)

It is now mandatory that you or the trustee register the trust with the registrar of the Supreme Court in Belize. No detail of the trust can be released once it is registered—not to foreign lawyers, governments, or any individual—without a written order from the trustee.

Belizean trust law also allows the trust to be revoked or terminated, the trustee can be removed, and the location of the trust can be transferred to another jurisdiction if global political developments make this advisable.

Flexibility: Assets do not have to be held for specific beneficiaries in specific amounts; distribution can be arranged at the discretion of the trustee. You can establish a trust with minimal assets (in the form of cash, real estate, or stock). These can then be supplemented or reduced later on. What's more, beneficiaries, protectors, and trustees can also be replaced later.

Protection: You have the option of appointing a protector for the discretionary trust; the protector can protect both the trustee and the beneficiaries from potential risks. The protector can be an individual or a corporation and ideally should be somebody of good character and integrity. This person need not reside in Belize. The powers of the protector include appointing new trustees and beneficiaries and arbitrating among the trustee(s) and the beneficiaries.

Regarding assets, Belizean courts will not recognize the validity of claims made against the assets of a Belizean trust based on the laws of another country in matters that pertain to:

- Personal or proprietary claims that stem from marriage or the termination of marriage.
- Successors' rights, including the fixed shares of spouses or relations.
- The claims of creditors in insolvency proceedings.

In this way, the system creates a barrier against anyone from another country who might come in search of your assets—even if that person is armed with a court order from that country. Belize does not automatically recognize such orders.

Tax benefits: Assets contained in a Belizean trust are exempt from taxes in your home country and are usually exempt from all Belizean taxes as well. In order to be exempt from Belizean taxes and stamp duties:

- The settler must not be resident in Belize for that tax year.
- None of the beneficiaries can be a resident in Belize for that tax year.
- The trust property must not include any land in Belize.

Inheritance protection: Within the trust deed or in a separate letter, you can administer the terms of the trust up to the time of your death. This benefit is particularly attractive if you have assets in several different countries. In many countries, you must have a legal will and testament in that country in order for friends and family to inherit your assets upon your death.

However, with a Belizean trust any foreign investment that is part of the assets of the trust is covered posthumously by the letter of wishes. Therefore, no additional documents are required for your beneficiaries to claim their inheritance. Essentially, the assets in the trust are not deemed part of your estate upon your death. The property passes directly to the beneficiaries, and no estate duty is due. Moreover, with this structure, there are no transfer taxes to be paid. This eliminates endless red tape and further protects your beneficiaries from inheritance taxes and restrictions.

The benefits of purpose trusts

The IRS has reporting requirements for Americans who are grantors of a foreign trust as well as for the beneficiaries of foreign trusts. Belizean purpose trusts get around the reporting requirements in two ways. First, the trust company in Belize creates the trust and therefore becomes the grantor. Second, purpose trusts are established for a specified purpose rather than for beneficiaries. That means there are no beneficiaries who would have to report to the IRS.

Attorneys in Belize believe that, in practice, chances are slim that the IRS would discover that the beneficiary of a discretionary Belizean trust hasn't followed its reporting requirements. But as one attorney put it, "Why take a chance?" A purpose trust avoids the problem entirely. Moreover, purpose trusts can be created for "American persons," a legal term that refers to companies, individual citizens, and immigrants to the U.S. who hold Green Cards.

Listen to an expert...

Would you like to hear more about global asset protection? Listen to our expert, Joel Nagle, talk about why it's such an important issue and why you should consider it...in Belize and elsewhere in the world.

www.internationalliving.com/Publications/Event-Presentations/Ultimate-Event/ueIVaudio/11-global-asset

Joel spoke at the Ultimate Event, our annual event in which we gather together all our experts from around the world so you have the opportunity to meet them, ask them questions, and find out all the information you will need for moving, investing, and living overseas. So, why not come along to our Ultimate Event V in 2010. Check our website www.internationalliving.com/Events for details.

Belize banking/trusts contacts

Here is a list of sources of useful information about trusts, banking, investments, and IBCs.

- **Arguelles & Company** (law firm), 35 New Road, P.O. Box 184635, Belize City;
tel. +501 223-008, +501 223-08588; website: www.belize lawyer.com.
- **Barrow & Williams** (law firm), 99 Albert Street, P.O. Box 617, Belize City;
tel. +501 227-5280; website: www.barrowandwilliams.com.
- **Belize Bank Limited, International Division**, 60 Market Square, Belize City;
tel. +501 227-0697; website: www.belizebank.com.
- **BELTRAIDE**, 14 Orchid Garden St., Belmopan City; tel. +501 822-3737;
website: www.belizeinvest.org.bz.
- **W. H. Courtenay & Co.** (law firm), 1876 Hutson Street, P.O. Box 214, Belize City;
tel. +501 223-5701; website: www.courtenaylaw.com.
- **International Business Companies Registry of Belize**, Marina Towers, Suite 201,
Newtown Barracks, Belize City; tel. +501 223-5108; website: www.ibcbelize.com.
- **Dean R. Lindo**, (attorney), 7 Church Street, P.O. Box 558, Belize City, Belize;
tel. +501 227-7388 and +501 224-4217.
- **Joel Nagel**, Nagel & Associates, LLC, 435 Broad Street, Suite 210, Sewickley, Pennsylvania
15143; tel. +1 (412) 749-0500; fax +1 (412) 759-0505; e-mail: nagellaw@aol.com;
website: www.nagellaw.com.
- **Provident Bank & Trust of Belize**, 35 Barrack Road, P.O. Box 1867, Belize City;
tel. +501 223-5698; website: www.providentbelize.com.
- **Scotiabank (Belize) Limited**, 4A Albert Street, P.O. Box 708, Belize City; tel. +501 227-0497
and +501 221-0135; website: http://scotiabank.com/cda/content/0,,CID3_LIDen,00.html.
- **David Tanzer** (attorney and consultant), 2121 N. Frontage Rd. #209, Vail, CO 81657;
tel. in the U.S. (970)476-6100; website: www.DavidTanzer.com.
- **Ruth McCulloch Neal**, Think Belize, Cucumber Beach Marina, 5 Miles Western Highway, P. O.
Box 2677, Belize City; tel. +501 222-4256, website: www.belize-realestate-investments.com.
- **U.S. Commercial Service**, with trade offices throughout the United States;
tel. (800) 872-8723; website: www.trade.gov.