

Using a Guernsey Trust to structure Nuptial Agreements or Separation Arrangements

Our clients know what they want to achieve. We know how to get there. Working with some of the sharpest minds in law and finance, we pull together the right blend of services to suit each client's unique situation. With an international network of experts and rich history in the financial world, we have the people and knowledge to help you succeed. Partnership, premium quality and personal attention. That's how we've remained a leader in Trust and Corporate Services since 1952.

In Guernsey we pride ourselves on the fact that we are unashamedly focused on our capabilities and in turn supported by a long history of professional practice, services and expertise.

The Radmacher v Granatino Decision

The 2010 UK Supreme Court decision of *Radmacher v Granatino*, now well-known in professional private wealth management circles, breathed new life into the attractiveness of nuptial agreements for high net worth couples on the one hand, whilst bringing greater security to those implementing such agreements or otherwise reaching settlements on separation or divorce on the other. We at Intertrust Guernsey took particular note that part of the solution before the (English) court involved a housing fund of £2.5 million being made available by the (French) wife to the (German) husband through a parallel trust arrangement ring-fenced from other assets of the wife (who was worth some £100 million).

The *Radmacher* decision is not only binding in England. Certain aspects will be of the highest persuasive legal authority for many countries heavily influenced by the Anglo-Saxon legal tradition, including Guernsey. These countries might now be said to have joined the wider international community of civil law nations which endorse, if not

positively encourage, spouses and partners to avail themselves of such arrangements in the context of private wealth protection planning.

The Role of the Trust

Even greater reliance can now be placed by spouses or partners (or indeed sometimes their parents or other affected family members) on using Anglo-Saxon based solutions such as trusts or other fiduciary structures, where it is considered appropriate for an independently managed entity to hold and over time distribute family property or other wealth in parallel with the arrangements privately agreed or ordered by a court.

Of course, it will remain important that all appropriate formalities are followed, including taking essential legal advice, ensuring the terms of agreement are carefully documented and recorded as evidently fairly arrived at as between its signatories, and safeguarding the interests of any existing or future children or other dependents who might be affected.

Choice of Trustee

Where parallel trust or other arrangements are to be part of the solution, choosing who acts as trustee or otherwise manages these parallel arrangements is obviously a very important decision too. Whether the arrangements are to operate from the outset to pre-empt any separation (or to manage an imminent divorce) or are to be placed in abeyance in the hope they will never actually be needed, this choice may only fall to be made toward the end of the process. It may have become quite urgent, particularly if the 'appointed day' is already fixed in everyone's diaries. This often means that the candidate trustee has to be responsive and quick to understand the proposed arrangements both in terms of the wider picture and the finer legal or other technical details concerning their set up and administration.

The benefits of Guernsey

The independence and location of the trustee or fiduciary chosen are also important. A highly reputable yet relatively tax neutral jurisdiction such as Guernsey may be ideal. The benefits of Guernsey include:

- ▶ Well regulated and highly reputable.
- ▶ Established, yet up to date trust and company laws suited to family trust structures.
- ▶ Comprehensive and mature legal and financial infrastructure.
- ▶ Political and constitutional stability.
- ▶ Modern communications and good mainland travel links.

The benefits of Intertrust in Guernsey

- ▶ Established track record, providing trust and corporate services from Guernsey for over 30 years. Our local heritage goes back over 100 years.
- ▶ Licensed to carry on fiduciary services by the Guernsey Financial Services Commission.
- ▶ The strength in depth of around 100 dedicated trust professionals.
- ▶ In house legal and Guernsey/UK tax expertise ensuring legal, tax and trust related issues are given full consideration.
- ▶ Transparent fee structure.

Summary

Whether you or your advisors are reviewing or implementing existing nuptial or separation arrangements, or are looking to initiate the process with a pre-emptive solution in mind, we at Intertrust Guernsey have the skill and experience to assist in the process and are able to pass our unique experience in complex trust matters to current and future clients. In the first instance please contact Martin Shires, Grant Howitt or Glen D'Arcy.

Martin Shires
martin.shires@intertrustgroup.com

Grant Howitt
grant.howitt@intertrustgroup.com

Glen D'Arcy
glen.d'arcy@intertrustgroup.com

**Intertrust International
Management Limited**

P.O. Box 119
Martello Court, Admiral Park
St. Peter Port, Guernsey GY1 3HB
tel 44 (0)1 481 211 000
fax 44 (0)1 481 211 001

guernsey@intertrustgroup.com