10. UNITED KINGDOM

10.1. General

What comes closest to the Austrian private foundation in the United Kingdom is the *trust*. This survey describes the most frequent forms of the *private family trust* as the legal form that is the most similar to the private foundation we know.

The persons involved are the *trustee*, the *beneficiary*, and the *settlor*. The settlor is the person who endows money, investments, land or buildings or other assets, such as paintings, to the trust. This may happen when the trust is formed or at a later point in time.

A trust is established by means of a *trust deed*. This may also be based on a final will. The *trustee* manages the assets endowed while the beneficiaries benefit in one form or another from these assets.

In the UK, there are different forms of trusts, such as:

- bare trusts
- interest in possession trusts
- discretionary trusts
- accumulation and maintenance trusts
- mixed trusts
- settlor-interested trusts
- non-resident trusts
- special trusts

10.2. Bare Trust

This trust form is also referred to as *simple trust*. In this form of trust, the beneficiary has immediate and full right of disposition to the assets and the income earned. The rights of the trustee under the name of which the assets are held are very limited. The trustee has no active obligations either.

Taxation

The beneficiary is personally taxed, that is, he or she is taxed as if the *bare trust* did not exist. The beneficiaries must declare income earned in their personal income tax declaration.

Also in the event that the trustee takes care of the payment of the taxes on behalf of the beneficiary, it is the beneficiary who is tax-liable.

10.3. Interest in Possession Trust

In this form of trust, the beneficiary, in this case also called the *income beneficiary*, is entitled to receive the income generated by the trust. The trustee must give the entire income of the trust (after deduction of expenses incurred and taxes paid by him) to the income beneficiary. It is possible that the beneficiary is entitled to receive these payments for his entire life, in which case he is referred to as a *life tenant*.

The income beneficiary has however no claim to the trust's capital. In most cases, the capital is destined for another beneficiary and intended for payments at a future date (which is usually determined in advance). Such a beneficiary is called a *remainderman* or a *capital beneficiary*. *Interest in possession trust*, the trustee has more rights than in the bare trust. For instance, he may also make payments to the beneficiary out of the trust capital.

Taxation

The trustee is tax-liable for all income earned, in particular:

- Rental and trading income is subject to a base rate of currently 22%.
- Dividend income realised in the UK is subject to the regular dividend tax rate of currently 10%; the tax credit associated with the net dividend reduces the taxes to be paid be the trustee.
- Income from savings (such as interest) is subject to a reduced rate of currently 20%. Income which is already subject to final taxation at source is accordingly deducted from the tax assessment basis.

The beneficiaries receive the payments after deduction of the taxes and fees that the trustee has paid out of the income. The income is used for certain purposes and the trustee's expenses need to be covered, too.

Payments to the beneficiaries are subject to the regular tax rates; however the beneficiaries receive a tax credit for taxes paid by the trustee.

In the event that a beneficiary is in the lowest bracket or tax-exempt at all, he may have a part or all of the taxes paid refunded. There are however no tax credits for dividend taxes. If a beneficiary is in a higher tax bracket, he or she must make additional tax payments.