

## TRUSTS

In Greece, beneficiaries to any asset in a deceased estate must 'accept' their inheritance in writing through the Greek Probate Court. Once the will is registered, the named heirs follow a series of legal steps to be acknowledged as such. In some cases, named heirs become embroiled in court proceedings to be recognised.

The Greek Probate Court, its administrators, and officials and the Tax Department, will look only to the foreign will if that is the one presented to them to determine who the heirs to the estate are.

When they interpret a clause which indicates the beneficiary is a trust or some similar form of devolution to an *inter vivos* trust, material problems quickly arise as the trust is not considered as a legal 'entity' or 'person'. Both testamentary and *inter vivos* trusts have no *locus standi* in Greece.

As the Probate Court in Greece will look to the trust as the named heir, but not recognise the trust as a legal entity, the situation is frozen and

finalisation of the estate delayed indefinitely.

The trust is viewed by the Probate Court in Greece as a peculiar 'special purpose vehicle' to becoming an heir or as another form of will and devolution which foreigners are eager to apply to escape tax consequences.

The trust is viewed as the instrument of acceptance or the means to inherit, rather than an entity that accepts, on trust, the assets to be held for the class of beneficiaries contained in its constitution. This being the case, the trust in Greece, cannot inherit, be a party to in any trial or court proceedings, or have any tax identification.

Since the trust and its representatives are not recognised in Greek law this means if there is immovable property in Greece placed in a foreign trust (created, for example, in a will) the immovable property is locked in an almost impenetrable non-existent entity.

This non-existent entity is unable to follow the legal procedures necessary under the civil law applied in Greece, thereby severing right title and interest to the immovable property.

Unfortunately, many people who currently have their Greek immovable property bequeathed in their will or already in a foreign trust may not have been informed that Greek law does

not recognise trusts. Therefore, any immovable property placed into the trust could damage the right, title and interest of the ultimate beneficiary. The trust severs the title to the land and devalues the property the settlor was attempting to protect for his beneficiaries.

Attorneys may not consider they could be harming their clients by including their client's Greek immovable property in a testamentary or *inter vivos* trust. If the country where it is being filed does not recognise the trust entity, the controlling law will have little effect.

Property owned in Greece should be excluded from any trust. Define immovable property in Greece separately to secure the right, title and interest in it so beneficiaries are saved huge legal fees trying to free property from an unrecognised trust through multiple applications to courts in Greece and similarly in other countries in Europe where trusts are not recognised.

In conclusion, there is a great advice risk attached to the assumption that all legal entities are accepted and recognised in all countries. Once a testamentary trust is filed with the court where trusts are not recognised, it may take a long time to resolve and only on the rare occasion with experienced counsel may it be successfully challenged through careful examination of the constitution of the trust.

