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Panama Private Foundation Part 7

Advantage of the Panama Private Interests Foundations

1. Panama Private Interest Foundation

The Private Interest Foundation is a juridical person, which is equipped by its Founder with determinated assets which constitute a separate patrimony of the Foundation, after their transference. These properties are managed by a Foundation Council, which is named by the Founder with the purpose to accomplish the objectives of the Foundation.

A Private Interest Foundation, as juridical person with its own patrimony, has the capacity to execute rights and acquire obligations. The Private Interest Foundation do not have shareholders or members. It is created by a declaration of the Founder and generally has as purpose the preservations of an established patrimony for benefit of the Founder or third determinated persons.

The Private Interest Foundations are instruments for the planning of family successions, may act as shareholders of assets and help to preserve the patrimony for beneficiaries generations.

Panama has a long reputation for providing offshore services to the international community. In an effort to provide additional opportunities in this area, Law No. 25 of 1995 was enacted. Said Law contains the procedures and requisites for the creation of Private Interest Foundations in the Republic of Panama.

2. Advantages of the Private Interest Foundation

Private Interest Foundations may be used as a tax and estate planning device with the following advantages:

- (1) They provide a fiduciary structure for the orderly transfer and disposition of assets to beneficiaries upon the death of the Founder, keeping control of assets during lifetime.
- (2) They may be established to have effects from the date of their constitution or after the death of the Founder.

- (3) According to Law No. 25, inheritance laws that apply in the domicile of the Founder or the Beneficiaries, shall not be effective against the Foundation's assets nor may these laws affect the validity or performance of the Foundation's objectives.
- (4) Foundations are established to carry the specifics set out in the Foundation Charter and may additionally undertake sporadic commercial activities, exercise rights pertaining to their holdings, own property, contract obligations and take part in administrative or judicial proceedings.
- (5) A Private Interest Foundation should be established with a patrimony destined to fulfill its objectives, which shall be no less than US\$10,000.00. Said patrimony may be increased by additional contributions of the founder or third parties.
- (6) The assets of the Foundation become legally independent and do not form a part of the private estate of the Founder. Such assets are not sizeable and may not be subject to any precautionary action or measure, unless such action or measure pertains to obligations incurred or damages arising from the fulfillment of the Foundation's objectives.

Notwithstanding the creditors of the founder or of a third party shall have the right to contest the contribution or transfer of assets to a foundation when such transfer constitutes an act in fraud of the creditors. The rights and actions of such creditors shall lapse at the expiration of three (3) years, counted from the date of the contribution or transfer of the assets to the foundation.

- (7) According to article 27 of Law No. 25 of 1995, Private Interest Foundations are exempt from payment of any taxes, contributions, duties, liens or assessments of any kind arising from the acts of constitution, amendment or extinction of the same, as well as acts of transfer or encumbrance of the Foundation's assets and the income arising thereof, when related to:
 - (a) Assets located abroad.
 - (b) Money deposited by natural or juridical persons whose income does not derive from a Panamanian source or is not taxable in Panama for any reason.
 - (c) Shares or securities of any kind issued by corporations which income is not derived from a Panamanian source, or which are not taxable for any reason, even when such shares or securities are deposited in the Republic of Panama.

The transfer of immovable property, titles, certificates of deposit, assets, funds, securities or shares carried out by reason of the fulfillment of the objectives of the foundation or the termination of the same, in favour of relatives within the first degree of consanguinity or the spouse of the founder shall also be exempted from all taxes.

If you wish to obtain more information or assistance, please visit our official website at www.kaizencpa.com or contact us through the following means:

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