

Management and Ownership

ILS offers two distinct types of ongoing service to clients – A Fully Managed service, something for which the Group is renowned, or a Non-Managed service, where we provide the Company and you provide the ancillary services yourselves. When providing a Fully Managed structure, ILS generally provides a complete package which includes Directors and Shareholders for the Company. In a Non-Managed structure, clients usually prefer to provide Directors and Shareholders themselves.

Here we explore the differences between the two types of structure, which we will refer to as 'Managed' and 'Non-Managed', to provide clear direction into which will be more suitable for your circumstances. The basis on which you establish your structure is critical to its success, so a clear understanding at an early stage is essential.

Directors

First, you need to decide whether you wish ILS to provide Directors for the company or whether you are happy to act in this capacity yourself.

Taxation is the principal consideration. In a number of jurisdictions Controlled Foreign Company legislation can often influence the type of structure suitable for the circumstances. We would recommend you take expert tax advice on this point.

In some circumstances, from a very simple tax perspective, any company, no matter where it is originally registered, can be considered to be tax resident in the jurisdiction from which it is effectively controlled. Thus a BVI company, with its Directors resident in the UK and decisions regarding its activities consequently being taken in the UK, would according to UK tax law, be considered to be tax resident in the UK. There seems to be little point in establishing such an entity in an offshore location if you then expose it to onshore taxation.

Traditionally, one of the prime reasons for using professional Director services is in order to maintain your confidentiality. Given that many offshore registries do not maintain a public register

of this information, you may think that this reason is not applicable, but it is not always as straightforward as that.

Firstly, a number of jurisdictions DO maintain public registers, even in some traditional offshore locations. It is likely that in future years this trend may proliferate.

Secondly, even if your chosen jurisdiction does not have such a public register, just how confidential will your details remain if you actively control and manage your company? If you are regularly signing on bank accounts, contracts and letters, it is clear that your confidentiality can be compromised.

Third Party Director Services

If you decide you need to appoint professional third parties to provide Director services, what does this mean to you in practical terms?

In order to understand this properly, we need to establish some frames of reference: one of the most important aspects to understand is the legal and technical position of those persons acting as a Director of a company.

The term "Nominee Director" is frequently used to describe somebody acting as a Director in a paid capacity on behalf of the beneficial owners of the company. The simple truth of the matter is that in law, there is simply no such thing as a "Nominee" Director. Anybody accepting such an appointment has full rights and responsibilities and cannot hide behind the word "Nominee".

This is especially true when that Director is a professional person or company and should be fully aware of all those duties and responsibilities.

ILS provides a professional Director service for many clients throughout the world; but the terms upon which the service is provided are very rigorous.

In order to satisfy the regulatory and common law requirements as outlined above, as well as to ensure real establishment of management and control in the desired jurisdiction, ILS must be able to exercise real and proper control over the day to day affairs of any company for which we provide Director services.



Operational Control

The first level of control is exercised with regard to fixed assets. Whether real estate, intellectual property or any other form of asset, the Directors have a duty of control over acquisitions, disposals and valuations. Equally, Directors will be watchful over liabilities. For example, mortgage proposals will be carefully examined for affordability.

It is also one of the Directors' duties to effectively control liquid assets, such as the company's bank account. We understand that in certain cases, such as active trading companies, we need to put in place measures that enable our clients to run their business effectively and we are proud of our ability to tailor our services to specific individual circumstances. Joint control of the bank account can often provide a workable solution. In addition, we are normally able to provide clients with online access to bank statements for tracking purposes. At all times, though, we must maintain our legal and professional responsibilities.

Shareholders

Confidentiality is the key factor in determining shareholding. The choice you need to make when establishing a simple offshore company, (subject to any local regulatory requirements) is whether you wish to be registered as Shareholders directly in the company or whether to use Nominees. In a Managed structure ILS provides the Nominee Shareholders and you are issued with a Declaration of Trust which sets out the terms upon which we are the Shareholders and that we are only holding the shares on your behalf. You are explicitly identified as the ultimate beneficial owner of the shares and as such, you always have ultimate control of the company. In a Non-Managed structure, you provide the Shareholders: the ownership is therefore transparent.

In our experience, the provision of full management services to your company (Directors and Shareholders) is an essential part of making it as effective and efficient as possible. The principal reasons for structuring in this way are to protect the confidentiality of the beneficial owner of the business and to achieve maximum tax efficiency.

A Non-Managed Structure

Of course, depending on the nature of your activities and your personal situation, it may simply be unnecessary to appoint full management to your structure. We will be happy to guide you through the decision making processes in cooperation with your professional advisers. There are clear terms and conditions that outline the services we are supplying to you and which are agreed upon at the outset of our relationship.

Costs

Management has to be paid for, of course, and it is true that fully managed companies cost more to run than non-managed companies. We do try to be as transparent as possible in all our pricing structures and the cost of such professional administration is, we believe a reasonable price to pay to maintain the full integrity of your structure. For example, as a responsibility fee we charge £125 per annum for the provision of a nominee Shareholder and £650 per annum for the provision of a Director of a trading company. When we are providing Director services, our increased involvement in the running of the company's affairs will also result in additional time billing.

Terms and Conditions

We are regulated and licensed professionals. A sample copy of our Terms and Conditions is available at:

www.ils-world.com/location/im/information

Please note that ILS (Isle of Man) Limited does not offer tax advice. If you are not professionally qualified to give tax advice, we will be happy to make an appropriate introduction.