Your Guide to

THE LEGACY SUPERANNUATION TRUST

THE NEED

The wealthy require a pension that includes a sophisticated asset protection and wealth management structure, which is recognised by Revenue Authorities world-wide, provides tax freedom on investment growth, at retirement and on death; and is available to anyone of any nationality, wherever they live, whatever their business.

THE PROBLEM

The more common Discretionary Trust, offshore company and insurance wrapper routes to market are not tax-recognised by Revenue Authorities or included in Double Taxation Agreements globally, which exposes assets to Capital Gains Tax, Income Tax and Inheritance Tax.

THE SOLUTION

The Legacy Superannuation Trust from Legacy Trust Company Limited. A globally-accessible, internationally tax-recognised pension structure with the legal protections of a Registered, tax-recognised Occupational Retirement Scheme

- Available to anyone, living anywhere, working in any occupation
- No capital or income contribution limits
- No artificial investment restrictions
- Income Tax freedom at retirement for the residents of 28 countries
- Complete Capital Gains Tax deferral during accumulation
- No wealth tax, Inheritance Tax or probate, anywhere
- Delivers multi-generational estate planning
- Provides 100% creditor protection
- IRS-recognised retirement account for US citizens
- Fully FATCA compliant with FATCA GIIN
- Also available to companies as a Global Group Retirement Scheme

The Legacy Superannuation Trust is not a tax haven-based insurance wrapper, an offshore company, or a personal Trust.

It is a globally-recognised retirement Scheme providing far greater permissions and benefits.

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1. INTRODUCTION

The Legacy Superannuation Trust (LST) is a Registered and tax-recognised Occupational Retirement Scheme (ORS), designed to pension your current and historic earned income, no matter who you work for, or where in the world you work.

LST is based on a Discretionary Trust established under the domestic legislation of the world's third largest international financial centre, Hong Kong. This combination of structure and legal recognition provides benefits which are far greater than the sum of its parts.

You may be a French citizen working for an oil company in the Caucuses, a US citizen working for a hedge fund in the United States, or an owner-operator of a South African business that trades overseas. You may already run your personal financial empire through a family office.

Whatever the level of your financial achievement, if you are currently employed then we can pension your income, protect your assets and provide you with multi-generational estate planning options.

LST welcomes US Members into an IRS-recognised, FATCA compliant account. It does not matter if you reside in the US or overseas.

Under Hong Kong law, LST is open to all and permits investment into any asset class located anywhere. It also achieves full Capital Gains tax-free roll up throughout its lifetime both in Hong Kong and elsewhere, and, for 28 out of the 33 countries with which Hong Kong has established Double Taxation Agreements, LST retirement income can be paid Income Tax free to residents of those countries.

This brochure aims to explain the *Legacy Superannuation Trust* in detail.

Should have further questions, please either speak to your Financial Advisor or contact us directly.

Because of the extraordinary benefits provided, we understand that prospective Members are likely to have sophisticated needs. Please be reassured that we are more than happy to work with your tax and Financial Advisors to ensure your retirement planning, creditor protection and estate planning needs are structured to best suit your needs.

2. THE LEGACY SUPERANNUATION TRUST

What is it?

Legacy Superannuation Trust is an Occupational Retirement Scheme (ORS) established for the purpose of providing globally-minded and mobile employees with income in retirement.

LST is available to owner-operators of private businesses, employees of corporations and senior members of the boardroom.

Status

LST is a non-vested Hong Kong-based Occupational Retirement Scheme Registered with the Mandatory Provident Fund Schemes Authority under Hong Kong's Occupational Retirement Scheme Ordinance, Cap 426 (ORSO).

The Scheme is tax-recognised by Hong Kong's Inland Revenue Department under the Inland Revenue Ordinance, Cap 112 and is recognised to be a genuine Occupational Retirement Scheme by taxing authorities, globally, including the US' Internal Revenue Service (IRS) and the UK's HMRC.

The Trustee is Legacy Trust Company Limited, which is a Registered Trust Company in Hong Kong under Part VIII of the Trustee Ordinance, Cap 29. This gives LTC its international recognition as a Professional Investor.

Being a genuine international Occupational Retirement Scheme the Legacy Superannuation Trust qualifies for inclusion in each Double Taxation Agreement (DTA) Hong Kong has negotiated with its trading partners.

LST is FATCA compliant. Legacy Trust Company Limited is registered with the IRS under GIIN DPHQS2.99999.SL.344. There is no FATCA withholding.

Qualifying for Membership

As LST is an Occupational Retirement Scheme, you must be employed at the point you become a member, and your employer must sponsor you.

It does not matter where you live or work.

Hong Kong's definition of employment is fairly broad. Directors whose duties extend beyond the boardroom count as employed and may be admitted as Members.

Unless you are invited to join a company-arranged group scheme, your employer is not obliged to make any contributions unless it wants to. Nor is it liable for the costs of operating the trust unless it has agreed to pay them.

Principal Benefits

- Anyone working in any occupation and resident anywhere in the world may be a Member of Trust.
- There are no maximum or lifetime contribution limits.
- You may make additional contributions (including of physical assets) at any time.
- If your employer makes a contribution on your behalf by way of salary sacrifice this may reduce your salary taxes.
- Contributions made by your employer may reduce your employer's business taxes.
- LST permits you to consolidate your fragmented pension portfolio, which may include your personally-owned retirement savings accounts, a US 401(k) if you have one, a property portfolio and your previous employer's offshore scheme.
- There are no regulatory investment restrictions on the Legacy Superannuation Trust. LST may hold anything, anywhere, including physical assets such as residential property.
- There is no Capital Gains Tax in Hong Kong.
- There is no Capital Gains Tax levied on the disposal of assets in many other jurisdictions
- There is no Income Tax on LST pension benefits in Hong Kong.
- There are no Inheritance Taxes applied to the Scheme on your death
- LST offers multi-generational estate planning. As it is based on a perpetual Trust there is no deemed disposition on death. It avoids the expense of international probate.
- No wealth taxes apply at any time
- LST qualifies under Double Taxation Agreement pension articles as a Registered, tax-recognised pension.
- 28 out of the 33 DTAs which Hong Kong has negotiated with its trading partners provide for tax free income to retired residents of those countries.
- The LST can be adapted to accommodate changing legislation elsewhere, so it can be adjusted to suit your retirement destination at any point during its lifetime.
- LST may be issued in a format that suits the demands of Civil and Sharia Law jurisdictions.
- 100% creditor protection (neither a spouse nor a Revenue Authority may seize trust assets. Creditors cannot access the funds even in event of your bankruptcy).
- LST is OECD-recognised, being regulated by the Mandatory Provident Fund Schemes Authority of Hong Kong (MPFA).
- LST is FATCA compliant. The Trustee had an IRS-issued GIIN number. There is no FATCA withholding.
- US citizens are no longer required to report the account to the IRS.
- A US citizen operates the account as a non-US person, meaning he or she is no longer shunned by overseas institutions.
- The LST permits you to consolidate your fragmented pension portfolio. This may include your personally-owned retirement savings, a US 401(k) if you have one, and your previous employer's offshore scheme.
- Our Members achieve complete privacy by law in Hong Kong.
- The Trustee acts for you. It will always want to know that its actions on your behalf are endorsed by you.

If the implications of these benefits are not immediately clear to you, please ask your Financial Advisor or Tax Attorney to contact us.

3. HOW DOES THE LEGACY SUPERANNUATION TRUST WORK?

Contributions

Minimum and Maximum Contributions

- Hong Kong does not impose any limits on your contributions to your LST.
- There are no artificial maximum lifetime limits on contributions to the Scheme.

Additional Contributions

- Under Hong Kong law, once you have established your LST, you may make additional contributions at any time and without limit.

Allocating Your Pension Contributions

Retirement Strategies

LST is designed to meet your long-term pension needs. Funds you wish to speculate with over the short-term ought to be put to work elsewhere.

Your investment strategy may include:

- Direct holding of residential property.
- The purchase of private company shares.
- Receiving private company shares as part of your deferred compensation.
- Investing through overseas private bank and stock broking accounts.
- Investing back into your own company

As you can see, it is not so much “can I invest” in a particular investment, as “should I?”

Appointing a Financial Advisor

We prefer that you appoint a Financial Advisor to advise the Trustee on an investment strategy which best suits your long-term risk appetite. Your account may be managed by your private banker, family office or independent financial advisor.

Whatever institution or firm they work with, they can walk you through a wide range of retirement strategies and help you to determine which one is best suited to you. Your chosen advisor will then advise the Trustee who executes the investment in Hong Kong as Principal.

Double Taxation Agreements

DTAs are important treaties. Among the many points they cover, they define which taxes are included and who is a resident and eligible for benefits; define the circumstances in which income of individuals resident in one country will be taxed in the other country, including salary, self-employment, pension, and other income; and provide for exemption of certain types of organizations or individuals. As they are inter-governmental agreements, they override local tax codes.

Because they have special social significance, properly Registered and tax-recognised Occupational Retirement Schemes are included in DTAs, whereas discretionary trusts, insurance policies, stock broking accounts and so on, are not. Not even vested personal pensions are included in all DTAs.

At the time of publication, Hong Kong has agreed Double Taxation Agreements (DTAs) with 33 countries. 28 of these countries assign Hong Kong the right to tax Hong Kong-sourced pension income. Hong Kong does not apply Capital Gains Taxes or Incomes Taxes to our IPP at any time.

This is unusual. Most DTAs (including the DTAs negotiated between tax havens and their partners) assign taxing rights on pension income to the country where the Member is resident. In such cases, the remaining practical advantage of a DTA lay in preventing competing claims between the two countries, thus reducing the potential for double taxation on your income.

If there is no DTA between the country of pension origin and your retirement destination then there is a real prospect of double taxation. However, where Hong Kong does not have a DTA with your chosen retirement destination the question of double taxation does not arise. Hong Kong pension distributions are Income Tax exempt in Hong Kong. There will be no double taxation.

The 28 countries listed below have agreed that they will not tax Hong Kong pension income paid to their residents:
Austria, Belgium, Brunei, Canada, Czech, France, Guernsey, Hungary, Indonesia, Ireland, Jersey, Korea, Kuwait, Lichtenstein, Luxembourg, Malaysia, Malta, Mexico, Netherlands, Peoples Republic of China, Qatar, Republic of South Africa, Russia, Switzerland, Thailand, UAE, United Kingdom, and Vietnam.

Here is the pension article written into the Hong Kong-United Kingdom DTA (reproduced in full):

"Pensions and other similar remuneration (including a lump sum payment) arising in a Contracting Party and paid to a resident of the other Contracting Party in consideration of past employment or self-employment and social security pensions shall be taxable only in the first-mentioned Party."

If you do not live in one of the countries shown above then you should expect to pay the local Income Tax.

The list of countries entering into DTAs with Hong Kong is growing rapidly. The vast majority of Hong Kong's DTAs reflect the more modern style of agreement, which passes taxing rights to one party or the other, but not both.

You should note that tax treaties are occasionally updated. When you finally decide upon your retirement destination, you should speak to your Financial Advisor to find out what DTA is in place; what the latest provisions of it are; and how to best go about claiming your benefits under that DTA.

A full list of the current pension articles written into Hong Kong DTAs is available upon request.

Retirement

Under Hong Kong's Occupational Retirement Schemes Ordinance there is no minimum or maximum retirement age.

A basketball player may retire in his early 30s. A business owner may never feel the need to retire. We can accommodate both.

Hong Kong rules permit retirement benefits to be taken upon the following events:

- On ceasing employment with your current sponsoring employer.
- On reaching your company-specific retirement age.
- Where your employer and trustee agree early retirement.
- Upon serious ill health

Other events may also permit you to withdraw any voluntary contributions you have made to your pension. If you have any questions about this, please speak to your Financial Advisor, or contact us directly if you do not have one.

Retirement Income

Depending on your circumstances and needs at retirement, you may draw funds over:

- a particular period; or
- your lifetime.

Payments may be:

- regular; or
- irregular.

You may instead draw down 100% of the fund in a single lump sum.

Death and Estate Planning

Because of its non-vested status and Hong Kong's perpetual Trust laws, the LST can be used for effective multi-generational estate planning purposes.

A Member's death does not affect asset ownership and there is no need for probate. Because there is no change to the Trust's status on the Member's death, no inheritance tax is levied anywhere by anyone. The fund remains intact and becomes available to the next generation.

On a Member's death, the amount and timing of the payment of benefits is exclusively the decision of the Trustee who will have regard to the Member's wishes and also the situation of the Member's dependents.

The pension fund is **not** available to pay the Member's creditors.

Had these global assets been owned directly by the Member, they would ordinarily be subject to probate in multiple locations, and attract inheritance tax.

LST will also avoid forced heirship should you reside in a country that has adopted the practice (i.e. Civil Law countries such as France, Germany, Spain and the Netherlands, and Sharia Law countries such as Saudi Arabia, the UAE, Indonesia and Malaysia).

Creditor Protection

LST owns the underlying assets and receives the protection of the Hong Kong courts in event of creditor action. As the assets do not vest in the Member until retirement (if at all) they cannot be considered a part of the member's estate.

Neither a spouse nor a tax authority may seize trust assets. The funds are not available to any creditor, even in event of a bankruptcy.

Precedent exists to prove how robust this creditor protection is.

How to Set Up Your Legacy Superannuation Trust

You should read the LST Scheme Particulars and the LST Fee Schedule and then complete and sign the LST Application form (including its relevant schedules).

Because of Anti-Money Laundering and Counter Terrorist Financing legal requirements, we prefer your do this with a Financial Advisor who can guide you through the process, confirm your status, and identify you as being a legal person. If you do not have a Financial Advisor please contact us directly.

This is an Occupational Retirement Scheme, so you will need to ask your company to sponsor you and sign Schedule C of the application.

Please note that your employer is not legally liable for the administration of the scheme or its costs. Nor does your company need to make contributions on your behalf unless they wish to.

If they have doubts about liability in this regard, please show them this Guide and the Scheme Particulars, or ask them to contact the Trustee using the contact details provided.

4. USEFUL THINGS TO KNOW WHEN PLANNING YOUR INTERNATIONAL PENSION

Occupational vs Personal Pensions and Discretionary Trusts

Occupational Retirement Schemes are legally different to personal pensions and Discretionary Trusts.

Once you are admitted to an Occupational Retirement Scheme your pension funds are afforded greater cross-border tax freedoms than are generally available to personal pensions and Discretionary Trusts.

For example, LST may buy and then sell UK residential property without paying UK Capital Gains Tax on its eventual disposal. Nor are there US Capital Gains Taxes on the disposal of securities held in US-based trading accounts. Personal pensions and Discretionary Trusts do not receive these tax benefits.

Occupational Retirement Schemes are included in Double Taxation Agreements. Personal pensions are not included in all DTAs. Discretionary Trusts are not mentioned in DTAs and so are not covered by them.

Employment

Naturally, if you have an employment contract with a company then you are employed. But different countries have different definitions of employment. For example, in many countries, directors are not considered employees. However, the definition of employment in Hong Kong is quite broad, and under Hong Law, a director whose duties extend beyond the boardroom may be admitted to an Occupational Retirement Scheme as an employee.

If you are unsure of your status, please speak to your financial advisor or contact us directly.

Portability

As you would expect, most Occupational Retirement Schemes are company-specific. When you leave the company you must stop making contributions, and on arrival at your new employer you start another pension.

Even if you work for the same employer but have moved to work overseas the result is often the same.

These problems disappear with LST, which is portable between employers and across borders.

Patchwork Pension Planning

Global and regionally-based companies find it almost impossible to create viable, easily administered cross-border pension schemes for multi-national employees working in different jurisdictions. As a result, companies tend to offer their employees one of three main options:

- the local national retirement scheme (if there is one);
- an offshore trust—something that looks like a genuine pension, but isn't; or
- they pass responsibility for retirement planning and saving to the employee, telling them to "go your own way".

The result is that most international workers either accumulate a number of 'itsy-bitsy' government-sponsored pensions—all with different rules and benefits—or a mixed bag of personally-held investments, often held within investment structures established in tax havens that revenue authorities now consider high-risk of tax evasion.

The wealthy have similar problems with their global investment and often rely on offshore companies or other entities to hold their long-term assets—entities that now attract greater scrutiny from Tax Authorities globally.

The problem with local national schemes

Local national schemes rarely ever suit the needs of globally-minded employees. Indeed, many local schemes aren't open to foreigners, and even when they are "open to all", they usually:

- impose a minimum and maximum retirement age;
- limit investment choice;
- cap contribution levels;
- won't pay out enough to maintain living standards in retirement

The problem with personally-owned assets

Investing through personally-owned investment structures or a vested offshore trust isn't the solution either, because:

- International pension legislation has changed over the past 10-15 years and many older structures are no longer recognised as pensions.
- Personally-owned assets are subject to increased reporting for the purposes of Anti-Money Laundering, Counter Terrorist Financing and FATCA.
- They often fail to shield asset disposals from Capital Gains Tax, either where the assets are located or where you live.
- Such schemes rarely permit you to hold physical assets such as property in a tax-efficient manner.
- They are not included in Avoidance of Double Taxation Agreements (DTAs), so the taxation of income from these schemes in your intended retirement location remains unpredictable and subject to change.
- Personally-held asset structures and vested trusts offer little creditor protection.
- They are most likely subject to international probate and inheritance tax.

Over time, the unofficial pension pot turns out to be extremely difficult to manage, and your estate becomes increasingly difficult to understand and execute.

Your Search for the Right Pension Solution

When looking for a viable global pension solution you need to put pension planning in context:

- You should be in no doubt that the more developed economies are bearing down on tax evasion and aggressive tax avoidance schemes.
- Offshore tax havens are the subject of increasing scrutiny from Revenue Authorities worldwide.
- Governments are now signing more and more Tax Information Exchange Agreements, aimed at flushing out hidden assets.
- More and more personally owned assets are subject to tax.

However:

- Working practices have changed over the past 20-30 years. Revenue authorities now fully accept that international workers will join company-sponsored Occupational Retirement Schemes outside of their home countries. Indeed, HMRC and the US' IRS have no objection to residents establishing their retirement plans overseas.
- Occupational Retirement Schemes are included in Double Taxation Agreements (DTAs), whereas bank accounts, mutual funds, insurance policies and trusts are not.
- Under OECD rules, any occupational retirement regime that is tax-recognised by the Revenue Authority of the host country is also to be recognised as such by revenue authorities elsewhere
- The Capital Gains Tax and Income Tax treatment of these accounts are covered in inter-governmental MOUs and treaties such as DTAs.
- Tax offices consider company-sponsored, tax-recognised, non-vested Occupational Retirement Schemes to have a low risk of tax evasion, whereas vested schemes and personally owned investment structures are considered to have a *higher* risk of tax evasion and so are subject to greater scrutiny.
- A correctly established occupational retirement account qualifies for many more tax benefits than can be had from any other investment structure.

It is important, then, to make sure you establish a retirement scheme that is recognised as a genuine pension by the widest range of governments and revenue authorities.

You can do this by selecting the Legacy Superannuation Trust. Once you do that, you can begin to plan for *your* future *and the financial security of future generations*, confident that you have made the right choice.

The OECD-sponsored International Organisation of Pension Supervisors (IOPS) gives recognition to Legacy Superannuation Trust because its Hong Kong regulator (the MPFA) is a member of IOPS.

Registered Trust Company or Fiduciary?

A Registered Trust Company is a public company. A Fiduciary may be an individual or a limited company. They must both abide by the same rules of the local Trust regime, but the Registered Trust Company is subject to more stringent corporate reporting. It must also meet certain capitalisation requirements. A Registered Trust Company is also granted wider permissions in law than a Fiduciary.

Hong Kong's Securities and Futures Ordinance and Occupational Retirement Schemes Ordinance both give specific recognition to a Registered Trust Company, and this means there is legal recognition of Legacy Trust Company Limited outside of Hong Kong as a Professional Investor.

Taxation

Reciprocity

Despite being very important, the taxation of your pension income shouldn't be your only consideration. Equally important is the tax treatment of your fund as it grows.

Because the pension industry plays such a positive social role, many OECD countries grant preferential tax treatment to the investment profits generated within domestic occupational pension funds (for example, recognised occupational pension funds rarely pay Capital Gains Tax on investment gains, no matter where they arise).

OCED countries (and others) also extend these local privileges to Registered tax-recognised foreign Occupational Retirement Schemes that invest into their markets, so long as there is a measure of jurisdictional reciprocity. This reciprocity has the effect of giving your LST even more tax benefits than those granted by way of DTAs.

These tax privileges permit recognised foreign Occupational Retirement Schemes such as the LST to buy and sell assets overseas without taxes applying to gains or income received, even when these assets are owned directly by the pension (and not through a third party scheme such as a collective investment).

This privilege is not available to the vested pensions domiciled in such places as Malta, Gibraltar, Jersey, Guernsey or the Isle of Man, which must rely more on the tax status of the underlying investment structure for their cross-border tax benefits. The direct holding of shares, bonds and property by such trusts leave them liable to tax on disposal, which is why they rarely offer such options to their Members.

If you want to get an idea of what Capital Gains Tax and Income Taxes apply to The Legacy Superannuation Trust (LST), then we need to break down the pension into its three phases, which are:

1. Contribution Phase (funding your pension).
2. Accumulation Phase (growing your pension).
3. Distribution Phase (drawing benefits from your pension).

The table below lays out lays out the generic tax position relating to The Legacy Superannuation Trust in Hong Kong and most other localities. You should consult a Financial Advisor to confirm whether this applies to where you live, wish to invest from, or may eventually retire to:

	In Hong Kong	In Your Place of Work/Residence Outside of Hong Kong
Contribution Phase		
Income Tax	Funded from after tax contributions	You may receive tax relief on your personal contributions. You may also reduce Income Tax through 'salary sacrifice.'
Accumulation Phase		
Income Tax	Nil	Nil
Capital Gains Tax	Nil	Nil
Distribution Phase		
Income Tax	Nil	According to DTA If no DTA, assume taxed based upon residency. As Hong Kong does not tax pension distributions there is no risk of double taxation
Capital Gains Tax	Nil	Nil

Salary Sacrifice

Contributions to offshore pensions or retirement savings plans are often made with after tax income. However, as the LST is a Registered, tax recognised Occupational Retirement Scheme, it may be possible to claim local tax relief where you work on some of what you contribute.

However, you should note that, in many jurisdictions, tax relief is permissible on recognised retirement account contributions up to a certain amount in any given tax year, only.

There is, however, a way that you might improve upon this.

When you arrange for your employer to make a pension contribution on your behalf, the fund is applied to your Legacy Superannuation Trust in the usual way: that is, it is contributed to your Trust account. However, because the LST is a non-vested retirement Scheme, the company pension contribution may not be deemed a direct benefit to you, unlike your salary. Under such circumstances, the contribution may be deemed a deferred benefit.

So, by agreeing to ‘sacrifice’ an element of your current salary in exchange for an equivalent company contribution to your Legacy Superannuation Trust, you may actually reduce your Income Tax bill by a significant amount, possibly by more than relying solely on claiming Income Tax relief on a pension contribution made directly by you.

Whether you are allowed to do this where you live is something only your Financial Advisor or employer can confirm.

Does Your Current Pension Qualify for Inclusion in a DTA?

As mentioned previously, both parties negotiating a DTA must agree what kind of a pension will benefit from the DTA article dedicated to pensions.

Many DTAs assume pensions to be Registered, occupational, tax recognised, and non-vested retirement schemes. They can therefore exclude vested schemes such as personal pensions.

DTAs never include Discretionary Trusts which have not been Registered and tax-recognised as Occupational Retirement Schemes.

Vested Schemes and Trusts *entitle* you to direct the Trustee on investment matters and because of this they are not considered by Revenue Authorities to have a low-risk of tax evasion. They may also be available to creditors in event of bankruptcy of the member.

If your current pension scheme is vested, then you should consider a transfer to the *Legacy Superannuation Trust*.

The LST is a Registered, tax recognised, non-vested Occupational Retirement Scheme and is considered to have a low risk of tax evasion. It qualifies for inclusion in each DTA that Hong Kong has negotiated with the rest of the world.

Is Your Pension Included in a DTA?		
Included	Government and Military service pensions	
Included	Tax recognised, registered and regulated, occupational retirement schemes (funded exclusively by earned income from employment)	Legacy Superannuation Trust
Not included in all DTAs	Supra-national international organisation schemes	OECD, UN, Radio Free Europe retirement schemes...
Not included in all DTAs	Personal Pensions, Tax Haven QROPS and Pensions	UK Personal Pension Plans and SIPPS, US IRA, vested QROPS...
Not included	Employer sponsored occupational schemes	Connected to employment but without legal or tax recognition. Possibly held under Trust, Employment Contract, within an insurance policy or company...
Not included	Personal investments	Savings plan, insurance policies, bank accounts, stock portfolios, personal Trusts, discretionary Trusts, companies, mutual funds...

Benefit Comparison of Asset Ownership and Tax Advantages

Here is a quick summary of the comparative advantages of choosing the Legacy Superannuation Trust as your pension destination:

	Pensions based in Malta, Gibraltar, Isle of Man, Jersey, Guernsey	Hong Kong Occupational Retirement Schemes
Nature of underlying Trust	Vested	Non-vested
Accepted for inclusion in DTAs where local taxing authorities insist on a pension being occupational, tax recognised	No	Yes
May own any class of asset located anywhere	No	Yes
May invest via collective investments	Yes	Yes
Can the scheme own onshore assets, directly—other than through funds?	Perhaps	Yes
Is the disposal of directly owned onshore assets free from CGT?	No	Yes
Can a scheme own onshore residential property, directly?	Perhaps	Yes
Is the disposal of UK residential property free from CGT?	No	Yes
Is the scheme FATCA compliant?	Perhaps	Yes
Can the scheme accept US citizens as Members with IRS recognition?	No	Yes
Does the Member maintain privacy when the Trust is effecting transactions with 3rd parties	No	Yes

Creditor and Estate Planning

This table demonstrates the relative strengths of protection afforded various types of accounts against creditors, probate and estate taxes

	Estate Planning	Creditor Protection
Personal investments	None	None
Employer sponsored occupational retirement schemes	None	None
Personal Pensions, Tax Haven QROPS and Pensions	Possible	None
Supra-national international organisation retirement schemes	Possible	None
Tax recognised, registered and regulated, Occupational Retirement Schemes (The Legacy Superannuation Trust)	Full	Full
Government and Military service pensions	Full	Full

FATCA, US Citizens, US Overseas Retirement Accounts and 401(k) “exports”

The Legacy Superannuation Trust accepts US citizens as Members.

As a consequence of the IGA Model 2 Tax and Information Exchange Agreement between the Hong Kong and US governments, the LST is deemed to be FATCA compliant. As a specific concession to IGA Model 2 rules, the Trustee reports to the MPFA on a “questions asked” basis rather than to the IRS on an automatic basis.

When adapted to comply with Section 402(b) of the US tax code, the LST is also recognised by the United States Internal Revenue Service to be an overseas retirement account.

This recognition conveys significant benefits to US citizens, including unfettered global (or narrow focus) investment, more robust creditor protection, reduced IRS reporting, no inheritance tax and a wider range of estate planning options.

And once a US person opens an LST account his or her retirement funds are invested in the name of the Trust. This Trust is a non-US person and an institutional investor, which overcomes the reluctance of overseas funds and institutions from accepting US-person money.

This also applies to US citizens who wish to “export” their 401(k) funds to an overseas retirement account.

If you wish to establish such a plan, please talk to us about our deferred compensation plans written under Section 402(b) of the US tax code.

Such US options require modification to our standard LST offering so a separate tariff applies. For more details, please contact your financial advisor, or contact us directly.

Being Non-Vested

By now you will see that there are a great many advantages to managing your retirement account through our non-vested Legacy Superannuation Trust (LST) rather than through a vested pension scheme incorporated in an offshore tax haven.

In exchange for transferring the ownership of your retirement assets to the LST Trustee, you control the fund’s tax, creditor protection, estate planning and reporting position much more effectively than you can through a vested pension scheme, a Discretionary Trust, an offshore company or any other method of ownership. Also, as the value of your retirement account grows, you may widen your investment horizons to include a range of physical assets including residential property with a range of tax advantages not normally available to individuals.

Non-vested means the Trustee assumes full ownership and control. That means you may request certain actions, but the Trustee may refuse to accept your requests in favour of the longer-term health or welfare of your account.

It also means that the Trustee must approve and sign all the investment applications and transactions involving third party providers, platforms or funds. However, your Financial Advisor may manage your account on a Discretionary basis if it enters into an agreement with the Trustee.

Please note, however, that the Trustee will always want to know that its actions are in line with your retirement wishes.

Should I Transfer-In My “Informal” Retirement Savings Accounts?

We cannot answer that question for you. You may have built an informal pension around a number of insurance policies, properties or stock broking accounts and now wish to formalise these arrangements within a genuine Occupational Retirement Scheme. If you wish to do this, please ask your Financial Advisor to contact us. We will discuss your requirements. If you do not have a Financial Advisor we can help you find one.

Is the LST Suitable for Use as a Company-Wide Retirement Scheme?

Yes. Globally. You may establish accounts for your key employees or your entire staff. Legacy Trust Company Limited will help you design a Scheme to suit either a specific group of employees or everyone. The resulting Scheme may either include all the benefits we mention in this Guide at outset, or benefits can be graduated to suit your need to retain and motivate staff. For more information on this, please speak to your Financial Advisor or contact us directly. Alternatively, please ask the appropriate person in your company to speak to us.

5. WHY HONG KONG?

Hong Kong is the world's third largest and one of its most stable financial services centre.

With over 230,000 financial services professionals, 159 banks (including 70 out of the world's 100 largest), and over 9,000 registered lawyers working at some 822 law firms, our Hong Kong trust Members are spoilt for financial choice and legal representation.

Standard & Poor's rates Hong Kong at AAA. Moody's awards it Aa1 and Fitch AA+. Its government debt stands at 32% of GDP as opposed to the United Kingdom's 114%, Spain's 105%, Portugal's 135%, Malta's 73%, and an OECD average of 113%.

As a city with a long history of facilitating trade between China and the West, Hong Kong has played a key role in helping China integrate with the global free market economy. Today Hong Kong is a Special Administrative Region of China, but although it may now be a part of China, it remains distinctly different. Hong Kong law is based on Common law. Its courts rigorously apply the Rule of Law. Its trust law is among the most modern in the world.

Hong Kong is not a tax haven. It is a well regulated jurisdiction which is engaged in promoting sound financial practices through its membership of global bodies. As a member of the Financial Action Task Force, it holds jurisdictional equivalence for Anti-Money Laundering and Counter Terrorist Financing with New York and London. It contributes to the development of global pension standards through its chair of the International Organisation of Pension Supervisors' Technical Committee. Hong Kong's Securities and Futures Commission is a member of the Presidents Committee of the International Organisation of Securities Commissions.

And yet Hong Kong is a free-spirited place in which to conduct business. The Heritage Foundation lists Hong Kong to be the freest economy in the world. It is certainly one of the most attractive: as at the time of writing, Bloomberg estimates Hong Kong's stock market valuation of USD4tr to be bigger than that of the Tokyo, suggesting Hong Kong now lies third behind only New York and London.

Hong Kong's abolition of both Inheritance Tax and laws against perpetual trusts give rise to some interesting estate planning opportunities. 28 of the 33 Double Taxation Agreements Hong Kong has signed with the rest of the world assign taxing rights on Hong Kong-sourced pensions to Hong Kong. And Hong Kong applies no capital gains tax on pension growth or income tax on pension distributions. Its pension regime also gives anyone the right to establish a pension here, no matter where they live or work, and it lets them do this with no restriction on investments. Its open architecture pension structure makes Hong Kong a very attractive place to establish a global retirement plan.

6. WHO REGULATES THE LEGACY SUPERANNUATION TRUST?

Hong Kong's Mandatory Provident Fund Authority (MPFA) regulates the Legacy Superannuation Trust. The MPFA's functions include, but are not limited to:

- Responsibility for ensuring compliance with the Occupational Retirement Schemes Ordinance (ORSO).
- Registering Provident Fund Schemes as Registered Schemes.
- Approving qualified persons to be approved Trustee of registered Schemes.
- Regulating the affairs and activities of approved Trustees
- To ensure, as far as is reasonably practicable, that Trustees administer the registered Schemes for which they are responsible in a prudent manner.
- Making rules or guidelines for the payment of mandatory contributions and for the administration of registered Schemes with respect to those contributions.
- Considering and proposing reforms of the law relating to Occupational Retirement Schemes or Provident Fund Schemes.
- Promoting and encourage the development of the Retirement Scheme industry in Hong Kong, including the adoption of a high standard of conduct and sound prudent business practices by the Trustee and other service providers.

The MPFA also acts as Registrar of Occupational Retirement Schemes as provided under section 5(1) of the Occupational Retirement Schemes Ordinance (Chapter 426, Laws of Hong Kong).

The ORSO came into force on 15 October 1993, and is the governing legislation for the regulation of voluntary Occupational Retirement Schemes operating in or from Hong Kong.

The ORSO aims to regulate the Retirement Schemes industry through a registration system to ensure that all voluntarily established ORSO Schemes are adequately funded and properly administered, and to provide greater certainty that Retirement Scheme benefits promised to employees will be paid when they fall due.

The Ordinance applies to all ORSO Schemes operated in and from Hong Kong. It also covers Offshore Schemes (i.e. Schemes whose domicile is outside Hong Kong, where the scheme or Trust is governed by a foreign system of law) which provide retirement benefits to Members employed in Hong Kong. All ORSO Schemes must be registered or granted an exemption certificate by the Registrar in accordance with ORSO.

The rules of individual ORSO Schemes such as coverage, enrollment arrangements, contribution rate and vesting scale are specified in the respective governing rules of the Schemes.

7. LEGACY TRUST COMPANY LIMITED

Powerful Trust Solutions

Legacy Trust Company Limited is a Registered Trust Company in Hong Kong under Part VIII of the Trustee Ordinance Cap 29. It offers the following services:

- Trust and Fiduciary Services
- Trust Administration, Accounting, Valuation and Reporting
- Charitable Trusts
- Trusts for Education, Medical Protection of Invalids and Aged Care Purposes
- Estate and Succession Planning
- Custodial Services
- Escrow Services
- Nominee Services
- Employee Share Option Trusts
- Fund administration services.
- Share Registry and Transfer Agency for Private Equity Arrangements
- Trade and Commercial Solutions

Product range:

- ORSO Retirement Trusts for Hong Kong and Overseas Beneficiaries
- Private Trust Arrangements
- Private Label Trusts
- Business Trusts
- Readymade or tailored Trusts.

8. COMPLETING YOUR APPLICATION

(As for IPP but refer to LST, not IPP throughout)

Disclaimer

Legacy Trust Company Limited has approved the issue of this Guide in good faith. The information it contains reflects its understanding of Hong Kong ORSO, Hong Kong tax, international tax matters and the relative advantages and disadvantages of Hong Kong over other pension issuing jurisdictions.

This brochure offers generic information only.

Nothing stated in this document is to be construed as personal advice.

The decision to proceed is yours and yours alone

LTC does not give advice on pensions, nor does it give advice on investments within a pension.

LTC's role is solely to act as Administrator and Trustee

The Legacy Superannuation Trust is a tax-recognised, registered, occupational pension and not a tax evasion scheme. Any attempt by a Member to abuse the LST may result in that member losing international pension recognition on his/her benefits

Potential Members should seek professional tax and investment advice before applying to be a Member of the Scheme

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ISSUE 02
SEPTEMBER 2016