



ST VINCENT and THE GRENADINES HYBRID COMPANIES

St Vincent and The Grenadines (SVG), offers a type of International Company called a "Hybrid Company." In certain situations, the Hybrid makes an ideal investment vehicle as it may provide tax planning while also supplying asset protection, estate tax planning, confidentiality and other benefits.

The term "Hybrid Company" describes a company that is limited by guarantee and has share capital. A Hybrid Company has at least two classes of members - Shareholders and Guarantee (or Beneficiary) Members. Some Hybrids also have preference shareholders. The term "Shareholder" is generally familiar and well understood. The term "Beneficiary Member" is less common, although sporting clubs or societies may be structured as companies limited by guarantee and thus having Beneficiary Members.

The rights and obligations which attach to each class of membership can be outlined in the Articles of Association of the company or by the directors in board meetings thereby keeping the terms and conditions of membership confidential. The arrangements which can be made are flexible and with skillful drafting of the different rights and obligations which attach to each class of membership structures can be created which are precisely tailored to the different needs of the client.

Apogee Asset Management (SVG), LTD provides the Shareholders and Directors who act in accordance with directions from the client similar to any nominee. Typically the company will not pay dividends, or reward the Ordinary Shareholders and Directors in any other way other than payment of the annual service fees outlined for the client at the outset. Holders of Preference Shares, sometimes referred to as Fixed Interest Members, are however entitled, according to the terms of issue of the shares and the By Laws of the Company. The assets of the company, including profits, are accumulated in the tax-free jurisdiction of the Hybrid.

The directors elect a Guarantee or Beneficiary Member into membership of the company on condition that the member assume the liabilities of the company up to a specified maximum amount - typically US\$500 or less. Thus, a Beneficiary Member holds a contingent liability - an obligation, in contrast with a shareholder who holds actual shares. When the company is finally liquidated all remaining net assets go to the beneficiary Members. The company is automatically liquidated upon the death of the Beneficiary Member, or earlier, according to its constitution.



Hybrid companies are often used as quasi trusts, particularly by persons resident in civil law countries that do not recognize trusts. The same benefits as trusts would apply, including Asset Protection, profit accumulations and confidentiality.

When used as a quasi trust, the hybrid company is typically structured with the Shares each carrying one vote but having no rights to dividends or participation in the income of the company. The Guarantee or Beneficiary Members have no voting rights but participate fully in the income and capital of the company. Thus, control of the Company legally rests with the Ordinary Shareholders, but all benefits flow to the Beneficiary Members, or as set out in the Articles of Association. The shares are then issued to professional managers, who act rather like 'quasi trustees' – having legal ownership of the Company and its assets but unable to receive financial benefit from holding the shares. All of the net (after payment to preference shareholders) financial benefits flow to the Beneficiary Members, placing them in a position rather like the beneficiaries of a typical trust. A Beneficiary Member's interest may be extinguished on death to eliminate succession problems, remove any probate requirements and therefore may eliminate any inheritance tax/estate duty implications.

The income tax statutes of many onshore countries, and in particular any related anti-avoidance provisions, often seek to tax undistributed or untaxed profits of low tax paying companies as if they had been received by the shareholders. The different legislations approach this goal in different ways but there is often a focus on the percentage of *shares* held. Alternatively, the legislation may focus on the control of the company, even if control is achieved otherwise than through the ownership of shares. However, in the organization of a typical Hybrid Company as set out above the Guarantee or Beneficiary Members do not own shares nor have control. Professional managers act as shareholders and have legal control of the Company. In some situations, this may mean that the typical anti-avoidance legislation is ineffective in taxing profits rolled up within a hybrid structure. Additionally, such a structure may not bring about any reporting requirement for the Guarantee or Beneficiary Members so, on a practical level, unwanted attention from onshore jurisdiction revenue authorities is avoided.

A Hybrid Company may also provide a means of overcoming difficulties caused by Exchange Controls. Although a Beneficiary Member would normally be issued with a membership certificate, this is not a share, a stock or a security. Since most Exchange Control regulations refer to securities, the holding of a Beneficiary or Guarantee Membership may not require Exchange Control approval.