# Can you migrate an existing trust to the BVI VISTA regime... and other frequently asked questions

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The Virgin Islands Special Trust Act, 2003 (**VISTA**) was enacted to make special provision for trusts of shares in companies and for related matters. Essentially, specific conditions have to be satisfied, and it allows a person to establish a BVI trust that can only hold shares in a BVI business company.

A creature of statute, the VISTA trust has gained huge popularity for succession planning purposes. A corporate-trust hybrid structure, offering impressive advantages for settlors seeking lifetime control over assets, the VISTA trust turns 12 on 1 March 2026.

Here, we take a closer look at VISTA trusts in the BVI by exploring the key features of the VISTA regime as well as answering some of the key questions related to VISTA trusts, including their uses and application as well as whether you can migrate an existing trust to the BVI VISTA regime.

## The key features of the VISTA regime

- Only the shares of a BVI company can be settled in to a VISTA trust; however, that company (a VISTA company) can own any asset.
- A properly drafted VISTA trust will avoid probate of BVI shares – and the associated costs and business interruption.
- A VISTA trust will avoid forced heirship rules applying in relation to BVI shares
  Legal ownership of the VISTA company vests in the trustee; however, control of the VISTA company (and by extension the underlying assets) sits with the director(s) – usually the settlor.
- At least one trustee must be a BVI licensed trust corporation (or BVI private trust company – although this is less popular).
- The trustee has information (and limited interference) rights, but is otherwise disengaged from the management and control of the BVI company; it is prohibited from acting as director and managing or invest the trust assets: its role is custodial rather than fiduciary.
- Professional trustee fees are greatly reduced as a result.
- The '*prudent man of business rule*' does not apply – VISTA trusts are great for riskier asset classes and investment diversification is not required.
- The rule in Saunders v Vautier (allowing all beneficiaries of majority age to dissolve the trust) can be disapplied for 20 years.

## BVI VISTA trusts FAQs

### Can I change my BVI trust to a VISTA trust?

It is possible, depending on the structuring of the original BVI trust and the terms of the relevant trust deed, to convert it into a VISTA trust. It is also possible to disapply the VISTA regime during the lifetime of a VISTA trust.

### Can I migrate my foreign law trust to VISTA?

It  is also possible to migrate a foreign trust to a VISTA trust, although this must be documented carefully, as a VISTA company shares cannot be added to the trust by the trustee of a foreign trust.

### Can a VISTA trust be revocable?

Yes, during a settlor's lifetime.

### Can a VISTA trust have more than one settlor – ie husband and wife?

Yes.

### Can a VISTA trust be discretionary?

Yes; a VISTA trust can be fixed interest or discretionary.

### Is a VISTA trust a living or lifetime only trust?

VISTA trust are very flexible: they can be structured as single-generation trusts that distribute on death of the settlor, or they can survive a settlor's death, either as a VISTA trust or outside of the VISTA regime.

### Can a VISTA trust be perpetual?

VISTA trusts generally benefit from an extended perpetuity period of up to 360 years, but it is possible, if properly structured as a purpose trust, for a VISTA to exist in perpetuity.

### Can a settlor be a beneficiary of a VISTA trust?

Yes, provided it is not the sole beneficiary.

### Can a settlor act as trustee of a VISTA trust?

No.

### Do I need a protector?

It is possible to appoint a protector of a VISTA trust, although it is not mandatory. Protectors are often appointed to provide additional safeguards after a settlor's death or to deal with the appointment of successor directors.

## What happens when a sole director dies? Does the trustee step in?

No: the trustee is prohibited by law from acting as director of a VISTA company. The VISTA trust will usually account for the replacement of directors under '*office of director*' rules.

## What if the trustee tries to remove the settlor as director and take control?

This is prohibited by statute, and additional safeguards may be provided via the '*office of director rules*'.

## Can a VISTA trust arise by implication or operation of law?

No, a VISTA trust can only be created in writing (including under a will).

If you have any questions on this topic, please contact a member of the team listed on the right hand side of this page.

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