

# Purchasing Strata Title Property In Vanuatu

2007

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## **BDO – Who are we?**

BDO Barrett & Partners is a 100% locally owned firm and is one of the leading chartered accounting and consulting firms in Port Vila, Vanuatu with its origins dating back to 1971. Being one of the largest of its kind in Port Vila, the firm enjoys a strong reputation of providing efficient and high quality services to local and international clients alike.

BDO International, of which BDO Barrett & Partners is a member firm, has over 28,000 partners and staff operating from 601 offices in 105 countries world-wide. Through the BDO International network the firm enjoys excellent referral and technical support arrangements.

The firm currently employs 30 staff, including 14 chartered accountants and graduates, and provides services to a broad range of industries which, inter alia, include:

- the primary industry
- the building and construction industry
- financial, insurance and trust companies
- the communications and computer industry
- the natural resources industry
- the sport and recreation industry
- Government sector

### **Industry Expertise**

With such a long history, the firm possesses an extensive knowledge of local regulations, legislation and methods and enjoys close working relationships with the various government ministries, departments and authorities. As such, the firm is well placed to provide valuable guidance and introductions to potential local investors, who can often be baffled by the myriad of unfamiliar customs and procedures!

The firm's expertise is best showcased by its close involvement with the *tourism* and *aviation* industries. BDO Barrett & Partners played an integral role in the establishment of Vanuatu's international carrier, Air Vanuatu, and provides accounting, audit and consulting services to Vanuatu's hotel and resort industry. The firm is also active in providing consulting and other professional services to the public sector.

### **Trust Company Services**

In addition to operating a traditional accounting practice, providing audit, consulting, insolvency and management services, the firm also provides trustee services, as well as funds and portfolio management to its expanding group of overseas-based clients. Such services are carried out by Trustees International Limited, the Firm's licensed trust company.

Trustees International Limited, which is wholly owned by the firm, was established in order to enhance services to offshore clients and to take advantage of the country's tax haven status. Today, almost half of the firm's business is derived from offshore clients, for whom the following services are provided:

- company formation and management
- provision of nominee directors, secretary and shareholders
- provision of registered office and registered agent
- maintenance of statutory records
- provision of trustee services
- international tax planning

### **Purchasing Investment Property In Vanuatu**

Why invest in Vanuatu?

- There is a complete absence of:
  - ⇒ income tax
  - ⇒ capital gains tax
  - ⇒ withholding tax
  - ⇒ estate duty
- There are no exchange controls and no reporting requirements in relation to movements of funds.
- Funds can be held in most major currencies and easily switched from one to another.
- Confidentiality is assured, particularly for offshore entities, by means of strict secrecy provisions contained within the various pieces of legislation to which they relate.

We recommend a discretionary trust as the best structure in which to purchase property in Vanuatu. This is due not only to the fact that international companies cannot hold Vanuatu property, but also because of the high level of asset protection the trust structure provides for the beneficiaries.

Outlined below are further details on how discretionary trusts work.

### **Discretionary Trusts**

The current trust law in Vanuatu is governed primarily by UK common law and statutes in existence since 1 January 1976. There has been a new suite of trust legislation drafted but this is yet to be laid before Parliament. This includes an International Trust Act which contains specific asset protection, creditor protection and forced heirship clauses for "international trusts".

A trust is not subject to any reporting requirements and hence confidentiality of financial information is assured. The only information we require to set up a trust is the proposed trust name, the client's address, details of assets to be held and details as to how the client wishes the assets and income of the trust to be dealt with, both during his (her)



lifetime and after his (her) death. We also require a Client Services Agreement to be signed, which includes an indemnity for actions taken upon his (her) instructions.

A discretionary Trust is a separate legal entity and is not related to the client, provided he or she is not named as a beneficiary under it. The trust is usually set up to ensure the structure protects the identity of the beneficiaries and is governed by the Trustees. Trustees act within the boundaries of the Trust Deed, the document which sets up the Trust. Trustees International Limited, our Trustee Company, usually provides this service. Trustees are charged with safeguarding the assets and income of the Trust for the benefit of the beneficiaries. Distribution of the income and assets of a discretionary trust remain at the discretion of the trustee.

A discretionary trust is usually created or settled by the payment to the Trustee of a nominal amount, say AUD20 by the "settlor" pursuant to the terms of the trust deed. At that point the settlor usually ceases to have any further role. Other assets may be transferred to or "settled" the trust from time to time.

Our costs for setting up a Discretionary Trust are:

Settlement:

Formation fee	500
Disbursements (approximately)	100
Trustee fee (minimum)	650
5% government levy	<u>58</u>
	US\$ <u>1,308</u>

Annual:

Trustee fee	650
5% government levy	<u>33</u>
	US\$ <u>683</u>

These fees are pro-rated from the date of establishment to 30<sup>th</sup> June 2008.

Once the Trust has been established our fees are charged on a time/cost basis monthly in arrears. Hourly rates range from \$US320 - \$US50 per hour depending upon the nature and difficulty of work required.

Any issues or concerns relating to tax in other jurisdictions (eg. Australia) need to be discussed with relevant experts in those jurisdictions.

Our Trust Application is attached as Appendix 1.

## **Strata Title Property Purchase in Vanuatu - Process**

Strata title purchase is slightly different from the standard transfer of a leasehold lease. With strata, transfers are of Lots and fall under the Strata Titles Act which do not require signed consents by the custom owner/government. This makes for a quicker transfer.

Steps that would take place:

1. Review sale contracts, pooling or letting agreements; engage local lawyer to assist if required.
2. Pay deposit
3. Arrange finance with a local bank if required.
4. Decide if purchase of property is to be through a Trust. If so, establish the Trust with BDO.
5. Upon settlement date, pay the balance of funds.
6. Receive Transfer of Lot documents for signature by person/Trustee.
7. Pay Stamp Duty of 2% to the Vanuatu Financial Services Commission payable on Transfer of Lot (normally takes 48 hours).
8. Register Transfer of Lot at Lands Records – 5%. Issue of a new Certificate of Lot for the new owner.
9. If purchased under finance the Certificate of Lot will be held by the bank, if a self funded purchase then it would be held by person/Trustee.
10. Pay agreed percentage of sale value to Lessor within one month of the sale as per Strata Act or negotiated in main lease.
11. Establish where rental payments are to be made.
12. Body Corporate levies pro rated, invoice will be received for payment.
13. Attend Body Corporate meetings or vote by proxy if unable to attend.
14. Enjoy your investment

## **Strata Title Property Purchase in Vanuatu - VAT**

As a potential buyer of a property comprising a Strata Title in Vanuatu we would like to direct your attention to the following Value Added Tax (VAT) matters:

### **Purchase for Commercial Purposes**

All sales of strata units used for commercial purposes can be treated as a going concern which means you will be liable to pay VAT at a rate of 0% at the time of purchase. A written agreement between the seller and the purchaser must be provided. Every person/trustee who owns a commercial unit will be required to register for VAT.

Keep in mind though that should you ever choose to conclude this agreement and use the apartment for your own personal use you will then become liable for VAT at 12.5% on the market price at the time of sale.

You may elect to pay the VAT initially so that it is not longer applicable as the market value may increase substantially by the time you come to you use for personal use.



### Pooling Agreement

The Agent, who collects all the rental income for the pool, will lodge your return as part of a group return on your behalf. Nomination of the agent to the VAT office in writing is required.

### Letting Agreement

Under a letting agreement you will be responsible for lodging your own VAT returns monthly or quarterly depending on the annual turnover.

### **Purchase for Personal Use**

Investment properties purchased for residential use will be subject to VAT of 12.5% on the purchase price. This then ceases the VAT liability and it is not payable on future sales.

### **Stay in periods**

As part of the agreement for investors that come under a pooling or letting agreement there are two periods of 7 days each year in which the owner is entitled to use the apartment for business related matters. During these periods all VAT paid on expenses directly related to the running of the unit such as water and electricity will be considered as part of the business and can be claimed back through the VAT return. You will have to submit proper tax invoices in order to do so. VAT paid on "personal" expenses during or after the allowed 7 days period can not be claimed.

### **Body Corporate**

If the Body Corporate earns more than Vt4M a year it must register for VAT. If it does not, it has the option to register for VAT if it wishes to claim back any VAT it incurs on expenses. As such, it will have to charge VAT on its levies.

The owners of properties under the pooling or letting agreement will claim this VAT on the levies back through the VAT returns.

### **Contact us**

For more information on the services offered by the firm, please contact:

### **Mark Stafford, Adrian Sinclair or Lynn Faber**

BDO Barrett & Partners  
BDO House, Lini Highway  
PO Box 240  
Port Vila, Vanuatu

Email: [bdo@vanuatu.com.vu](mailto:bdo@vanuatu.com.vu)  
Telephone: +678 22280, Fax: +678 22317  
Website: [www.bdo.vu](http://www.bdo.vu)



**Appendix 1:**

**APPLICATION FOR SET UP OF A TRUST IN VANUATU**

1. **PROPOSED TRUST NAME:** \_\_\_\_\_

2. **TRUST FUND:** \_\_\_\_\_  
*(This means the settled Property of the Trust. Usually on set-up this is A\$20, US\$20 or VT2,000)*

3. **TRUSTEE:** \_\_\_\_\_  
*(This is the person (usually our Trust company, Trustees International Limited) who controls the day-to-day management of the Trust)*

4. **PRINCIPAL/APPOINTOR:** \_\_\_\_\_  
*This is the person (usually our nominee company, Global Nominees Limited) with overall power in relation to the Trust.*

5. **CLIENT(S):**

\_\_\_\_\_  
FULL NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE & FACSIMILE DETAILS

\_\_\_\_\_  
FULL NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE & FACSIMILE DETAILS

6. **PERSONS AUTHORISED BY CLIENT TO ISSUE INSTRUCTIONS ON CLIENT'S BEHALF:**

\_\_\_\_\_  
FULL NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
TELEPHONE & FACSIMILE DETAILS

7. **PROPOSED ACTIVITIES OF TRUST:** \_\_\_\_\_

\_\_\_\_\_

8. **BANK:** \_\_\_\_\_

\_\_\_\_\_  
*(Preferred bank and currencies, length of investment, rollover)*

9. **PREFERRED REPORTING PERIOD:** \_\_\_\_\_  
*(This is usually 18 months from set-up for the first accounting period and annually thereafter).*



**10. VESTING DATE:** \_\_\_\_\_  
(This is the date on which the Trust expires. Usually the maximum term of 80 years is nominated. Date of vesting can be varied upon instruction).

**11. BENEFICIARIES:**

Primary: \_\_\_\_\_

Secondary: \_\_\_\_\_

Tertiary: \_\_\_\_\_

(Usually the International Red Cross is named as Primary Beneficiary)

**12. ACCOUNTS:**

Under the Trust Deed our annual balance date is 30th June, and we prepare accounts on that date or soon thereafter each year. However, when Trusts are inactive, the trustees will use their discretion as to when or whether accounts need to be prepared.

N.B. Additional charges are made for accounting, based on time spent.

**13. CLIENT CONTACT DETAILS:**

Preferred method of communication (please tick)  Email  Facsimile  Post

Mother's Maiden Surname \_\_\_\_\_ (for identification purposes during telephone conversations)

Contact Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ (office hours) \_\_\_\_\_ (after hours)

Facsimile: \_\_\_\_\_ (office hours) \_\_\_\_\_ (after hours)

Email: \_\_\_\_\_

Note: BDO Statements and other notices are normally forwarded in a Private & Confidential envelope to the address outlined above, unless otherwise specified.

**14. SPECIFIC INSTRUCTIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**15. FEES**

Preferred Method of payment: (**Please tick**)  T/T  Visa/MasterCard  Cash  Cheque  Draft

Amount: \_\_\_\_\_

Fees should accompany all applications to register a company. Cheques or bank drafts should be made payable to Trustees International Limited, or TIL and remitted by mail directly to us.

**USD SWIFT Payment Orders/Telegraphic Transfers:**

Please instruct your bank to use the following USD payment routing method:

United States Intermediary Bank (IBK): JP Morgan Chase Bank  
New York (SWIFT: CHASUS33)  
Fedwire Number: 021000021

Beneficiary Bank (BBK): ANZ Banking Group  
Melbourne (SWIFT: ANZBAU3M)

Account No: 001 1910601

Beneficiary Name: Trustees International Limited



Beneficiary Account No: 010982 692182  
 Reference: Your Name

**AUD SWIFT Payment Orders (MT100) should be issued direct to ANZ Bank (Vanuatu) Ltd:**

SWIFT Code: ANZVUVX  
 Beneficiary Bank: ANZ Bank  
 Beneficiary Account Name: Trustees International Limited  
 Beneficiary Account Number: 010982 692171  
 Reference: Your Name

*The following is the ANZ Bank (Vanuatu) Ltd's correspondent bank (if required):*

ANZ Bank Melbourne  
 SWIFT Code: ANZBAU3M  
 Account No: 11155101014

**Visa/MasterCard Payments: (Please tick)**

Visa  MasterCard

Account Number: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

Exact Name on Card: \_\_\_\_\_ Signature: \_\_\_\_\_

**16. DECLARATION OF BENEFICIAL OWNER(S)**

I/We have been made aware of the legislation in Vanuatu, including the Mutual Assistance in Criminal Matters Act and the Serious Offences (Confiscation of Proceeds) Act, designed to prevent amongst other things the laundering of proceeds of criminal activities.

I/We hereby certify that the trust to be established under this application will not be used for the purpose of criminal activities and I/we will take steps to prevent such activity from occurring in the future.

I/We hereby certify to the best of my/our knowledge and belief, that the information contained in this application form is correct and complete and undertake to advise BDO of any changes to the above information.

Name(s): \_\_\_\_\_

Signed at: \_\_\_\_\_ this: \_\_\_\_\_ day of \_\_\_\_\_ Year: \_\_\_\_\_

Signature(s): \_\_\_\_\_

**PLEASE SEND** the following to TIL, P.O. Box 240, Port Vila, Vanuatu, Fax: (678) 22317:

- Completed Form
- \*\*Certified Copy of Beneficial Owner(s) passports and drivers licence, showing photo(s) and signature(s). Note: Photo must be clearly visible.
- \*\*Certified Copy of Authorised Persons and Directors passports (if applicable)
- Proof of payment

\*\* Original certification must be made by a Notary Public, Justice of the Peace, Commissioner of Oaths, Accountant, Bank Manager or Clergy.