



TOO OFTEN, THOSE WITH WEALTH WAIT UNTIL IT'S TOO LATE TO PROPERLY PLAN OUT THEIR SUCCESSION.

# Don't wait until it's too late

SUCCESSION PLANNING MIGHT NOT BE THE FIRST THING AN HNWI WANTS TO THINK ABOUT, BUT IT'S AN ESSENTIAL PART OF PRESERVING WEALTH. AN ALL-STAR PANEL AT THE WEALTH ARABIA SUMMIT 2017 ANALYSED THE ISSUE

For most high net-worth individuals, wealth is accumulated and preserved with one goal in mind—leaving one's children in a better position than they themselves started out with. As a result, the issue of succession planning—passing that wealth on to the

next generation—is a key focus for every HNWI. In a region such as the GCC, this is not always an easy task. With so many nationalities, differing regulations in different countries and assets both on and offshore the question is—just how complicated is it?

At an all-star panel to close out the *WEALTH Arabia* Summit 2017, this issue was tackled head on. Moderator Robin Amlöt, Consultant, CPI Financial was joined by Piers Master, Partner, Charles Russell Speechlys; Sean Hird, Director, DIFC Wills & Probate; Fiona McClafferty, Private Client Tax Specialist, Deloitte, and Karim Ghandour, Founder & Family Succession Strategist, Legacy Line Family Office to discuss the latest developments.

“I think it gets as complicated as you want it to be,” said McClafferty. “I think that if you do no planning, if you don't think about it all, if you have no will, or if you don't discuss with your family what you want to do, then it gets super



complicated and very expensive. What I can guarantee is that if you speak to your family and if you start thinking about these things now—it's not morbid, you're actually doing a favour to those that you're leaving behind—just start understanding what they want to achieve and also make sure that they understand what you want to achieve. I'm hoping, having listened to the blockchain conversation, that we're all not going to be done out of a job as middle men because there is so much... each family is different, whether they're GCC Nationals or expats, or if they live in the US or Europe, to avoid complexity it's all in the preparation."

Master agreed. "I think it's very important, especially for families from this region to recognise that there is quite a significant distinction between succession planning for international assets and succession planning for local assets and knowing the different solutions for each of those. The solution for local assets, if you are an expat, may well be a DIFC Will, which we will talk about in a minute. I think the solution for international assets is much more likely to lie in the area of trusts... Trusts are something that people don't necessarily understand very well, but they are incredibly useful, and they are incredibly useful for people from this region because Islamic Shari'ah succession laws generally do permit you to make gifts in your lifetime, including to a suitably established trust which can be fully Shari'ah compliant."

"Quite a lot of our work as lawyers on dealing with succession planning involves setting up trusts, which aren't in any sense an attempt to overcome Shari'ah. We make sure they are vetted by Islamic scholars and that they have the necessary features to ensure that everyone is comfortable that we are doing a Shari'ah-compliant plan. However, that doesn't work so well for the local assets. So for the local assets the kind of planning you tend to look is more family-governance based solutions. The issue is that currently this may change and there are all sorts of interesting developments around ADGM foundations, DIFC trusts, and similar

things like that. But for the moment it's quite hard to do lifetime structuring with trusts for local assets so the solution tends to be family governance... making sure that families get by, and making sure that you really have those difficult discussions.

Ghandour provided some perspective on the importance of Shari'ah on the subject in the region. "Initially we used to advise families on estate planning and then we realised that local families, especially in Saudi Arabia and UAE, when it comes to religion obviously it is very clear and very simple, unlike what a lot of people think. When it comes to distribution, the Quran is very clear on how assets should be distributed. But the issue becomes governance, which is not addressed in religion. Even in the early stages of Islam we had issues in terms of who would succeed, post the death of a prophet. Basically this [governance] is the real conflict... the inherited conflict around families. If we distribute everything according to Shari'ah law or according to the trust outside, how are we going to govern this? That's the big issue. We have multiple dimensions. Lots of the knowledge we know about governance and the things we've learned about governance came from North America and Europe and it focused on business... on family business... but it doesn't really address the dynamics of a Middle Eastern family, or an Indian family, or a Chinese family, and that is something we are learning as we go, it's very exciting. So that's the interesting stage we're in. And then we have millennials... that's another dimension that we're dealing with in governance, so we have to take that into consideration," he said.

DIFC Wills and Probate Registry was a major development in the UAE succession landscape, giving expatriates the opportunity to create wills that were not governed by Shari'ah. "Back in 2015 there was recognition here in Dubai that the key thing that people were looking for is certainty and that certainty comes through trust structures or through other mechanisms," said Hird, head of the initiative. "The key thing that everyone is looking for is certainty and what

the Dubai Government set up back in 2015 was really a system of registration whereby, for the non-Muslim community at least, they could register their wills and get that will enforced through the DIFC courts to provide the certainty that people were looking for. So it again just sort of reflects the innovation here in the UAE, particularly here in Dubai, which is leading to deliver that certainty and although we're talking about Dubai and the initiative of the DIFC courts for registration, we're also seeing this reflected elsewhere in the UAE. It was only about three or four months ago that Abu Dhabi also created a registration system for registering wills to provide the certainty to provide the non-Muslim community and investors here to get the certainty that they're looking for."

McClafferty echoed that point, signalling that the message is not specific to anyone in particular—anyone should start thinking about a will. "One thing I will say to anybody anywhere is please make sure you have a will, whether it's with the DIFC or onshore or in your home country. Most of my clients are GCC Nationals and so what we're really talking about are the complexities and conflicts between Shari'ah succession and tax because invariably you have a family member who is married in America or is an American or you've got a child in university or interning in the UK or the US and that's really where things get a bit tricky—where you're looking at locally structured assets with a tax hat on. Going forward, you mentioned regulations, with reporting standards coming in (in Dubai, Saudi, Bahrain, Kuwait, Lebanon, and Qatar) we're going to be looking more and more at structuring and thinking with a regulatory hat and a tax hat as well as trying to work out the most efficient succession plan."

The biggest problem remains that these issues are not tackled often enough proactively. For most succession issues, the experts only weigh in once the issue has come to pass.

"When I see people it's often too late—they've already bought something and they have a problem or they have inherited something and they already have a problem," said Ghandour. ❏