

## ICS TRUST (ASIA) LIMITED




## Tax and Estate Planning Guide

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## I. Wills & Estate Planning

*Almost everyone should have a will but unfortunately many people still die intestate each year which means that their assets often end up in the hands of people whom they never intended to benefit.*

*This is of particular concern for unmarried co-habitees, who may have no automatic right to their deceased partner's estate but have a family to support.*

*Choosing Executors is very important, as these are the people who are going to implement your wishes. If your estate is large or complex, it is often advisable to appoint a professional Executor, as they will be able to process the probate quicker and will avoid disputing the Will, as they are not a Beneficiary. ICS TRUST is happy to act as a professional Executor.*

*If you live in Hong Kong and have young children, it is very important to ensure that you have a Will that appoints Guardians, or your children could be taken into care whilst a lengthy court process is instigated to appoint Guardians for them.*

*ICS TRUST can draft your will for you. Our legally trained staff are very experienced at drafting wills and can advise you on what you need to include in your will.*

### A. Basic Wills

- A basic Will ensures that your estate is passed to whom you chose
- Can be a fairly simple document

### B. Planning for Gifts

- A will allows you to make gifts to charities and people outside your family
- Tax efficiencies can be gained if gifts are planned
- If you ensure that certain gifts are made, it could avoid challenges to the will in the future

### C. Dying Intestate

- Without a Will, your estate will pass according to statutory rules
- Statutory legacies only provide for blood relations
- No automatic provision for unmarried co-habitees
- If no relatives living at the date of your death, your estate goes to the government

#### D. Naming Executors, Guardians and Trustees

- This allows you to appoint people who you trust to carry out your wishes
- Guardians are especially important, as they will be responsible for looking after your children

Mr. and Mrs. Quimble have just gotten married, they each have substantial assets and if they did not have wills, under the Hong Kong intestacy rules other family members could make a claim on their estates.

By coming to ICS TRUST, wills can be prepared to ensure that the Quimbles are the sole beneficiary of each other's will.

#### E. How to pick an Executor and/or Trustee

- Can be anyone that you want
- Professional Executors and Trustees are often better than friends or family because they have the time to devote to the Probate or Trust
- Professional Executors and Trustees are also impartial and will not get involved in disputes over inheritances

#### F. Keep your will up to date

- Wills need to be regularly reviewed and updated, especially when there are major family changes, such as:
  - Marriage
  - Birth of children / grandchildren
  - Divorce
  - Deaths
  - Significant increases in wealth

#### G. Business Succession Issues

- If you have a family business, care needs to be taken that it can be passed through your will
- The business must be able to function, so assets cannot be split between your heirs
- Tax can be saved if early planning is undertaken

Mr. and Mrs. Schlepper both live and work in Hong Kong. They own a flat in Hong Kong but have bank accounts and property in Canada. If they were to die with just a HK will, this would have to be proved in both HK and Canada.

ICS TRUST is able to draft both HK and Canadian wills, so the probate proves will be much quicker.

## II. Lifetime Tax Planning

*Whilst it is very important to have a Will, you should also review your financial affairs regularly and look to implement tax planning that will reduce the value of your death estate, as many jurisdictions still seek to impose death duties.*

*For the internationally mobile executive, another concern is that holding assets in different jurisdictions means that their Executors will have to obtain probate in each of those jurisdictions. This process can be considerably eased by preparing multiple wills.*

*Through life time planning, you can also implement planning for your children's education and provision for your retirement. ICS Investment Services can assist with recommending planning and investments that will achieve your goals.*

Mr. Berkley-Hunt is a UK citizen who moved to Hong Kong for work. Whilst in Hong Kong, he met his wife, who is a non-UK citizen. Mr. Berkley-Hunt now wants to sell his UK property and purchase an apartment in Hong Kong. ICS TRUST's experts were able to advise the Berkley-Hunt's how to structure the transaction, so that UK taxes were minimised.

### A. Domicile, Residence and Moving Jurisdictions.

- If your work involves you moving to a different country, you may have assets in 2 or more jurisdictions
- This makes probate administration a lot more difficult
- You should consider having a different Will for each jurisdiction
- Tax planning needs to be undertaken to ensure that your beneficiaries do not pay too much tax
- If you have moved permanently to another country, it may be advantageous to formally move your tax domicile and residence to the new jurisdiction (especially UK and US citizens)

### B. Planning children's education

- School and college fees are increasingly expensive
- By establishing a trust fund whilst your children are young, you can put away funds in order to pay for these in the future
- You can encourage other family members, such as grandparents (see below) to contribute to the trust fund, confident that the money will only be applied for your children's education and not a new Ferrari

### C. Pensions

- Pensions are generally required to provide for you in later life, as most state pensions are insufficient
- They can also be a tax planning tool and if the correct plan is utilized, can reduce death duties and ensure that your loved ones receive benefits after your death

## III. Offshore Structures

*Offshore Trusts structures can be very useful tools for the international client, as they can greatly assist you with:*

- *Tax planning*
- *Asset protection*

*Care must be taken the creation of any offshore structure, because the residence and domicile of the client and what they want to achieve, will affect the choice of structure and the jurisdiction that it is established in. At ICS TRUST we look at the individual client's needs and advise them on the most suitable structure to fulfill those needs.*

### A. Offshore Trusts

- The traditional offshore structure
- Assets are gifted to Trustees to hold on "trust" for your nominated beneficiaries
- Confidential, many offshore jurisdictions have good privacy laws
- Tax benefits can be achieved by placing assets in offshore trusts

### B. Companies

- For some clients, a company is a better vehicle than a trust, although they generally require more administration
- Often used in conjunction with a trust
- As with trusts, tax benefits can be achieved by placing assets in offshore companies

### C. Foundations

- Special vehicles that are used for clients who want the benefits of a trust but want to retain a greater degree of control over their assets
- Good vehicle to use when you do not want to disclose Beneficiaries
- Suitable for civil law jurisdictions

### D. International Pension Funds

- Often a very tax efficient way of keeping money offshore
- Some jurisdictions have tax efficient regimes (e.g. QROPs in the UK)
- Allows you to move jurisdiction but keep the same pension fund

#### E. Key Offshore Jurisdictions

- BVI
- Anguilla
- Bahamas
- Nevis
- Channel Islands
- New Zealand
- Liechtenstein

Mr. and Mrs. Yeung have inherited a large sum of money that they want to invest in a London property because their daughter Minnie will be studying at LSE. ICS TRUST are able to set up an offshore structure that will avoid UK Stamp Duties on the purchase and minimize the Yeung's future exposure to UK capital gains tax and inheritance tax.

## IV. Asset Protection

*Trusts are not just tools for avoiding tax, they are also very useful tools for helping clients to protect, preserve and enhance family wealth.*

*ICS TRUST has 30 years experience of establishing trusts for clients. Our team of Trust experts will ensure that each trust is tailored to meet your or your family's needs.*

#### A. Grandparent Trusts/Trusts for Education

- Grandparents may want to establish trusts to assist with the maintenance and education of their grandchildren
- The trust can be drafted so that the trust fund is only applied for education and cannot be squandered

#### B. Trusts for Minors and vulnerable persons

- Children cannot own property themselves but a trust for minors ensures that the trustees can hold funds on their behalf and apply the funds for their maintenance
- "Vulnerable persons" refers to individuals who have severe mental or physical disabilities that prevent them from being able to look after themselves. Their Trustees will ensure that their trust fund is applied in such a way as to provide the care and assistance that they require

Mr. and Mrs. Frampton's daughter Mercedes suffers from cerebral palsy and they are concerned that she is adequately cared for, as they are elderly and cannot provide daily care for her, if their condition deteriorates.

ICS can establish a Trust, where the trustees can be instructed to pay for carers or sheltered accommodation for Mercedes.

### C. Asset Protection

- Trusts can also be used to protect family wealth from :
  - Creditors – especially useful if the individual is in a professional partnership
  - Spendthrift family members
  - Divorce actions

Mr. and Mrs. Bunting want to help their son Timothy purchase a flat but they are concerned that he is not very wise with money and could sell the flat or mortgage it. ICS can help the Buntings to establish a trust that will buy the flat, for Timothy but because the trust owns the flat, Timothy cannot sell or mortgage it.

## V. Philanthropy & Charities

*It may be that the client has no close relatives that they want to leave their estate too or they believe that they have adequately provided for their family during their lifetime and they want to use their Will to make gifts to charity.*

*Whilst most clients will not want to create a multi-billion dollar foundation like Bill Gates, ICS TRUST can assist clients by creating charities and foundations or drafting provisions for charitable gifts in their Wills.*

Mr. Chips has no family but as a former Headmaster. Mr. Chips wants to leave money to make scholarships for promising students whose families struggle to pay for their schooling.

ICS TRUST establishes a charitable trust for Mr. Chips. During his lifetime Mr. Chips guides the Trustees on distributing the scholarships and after his death, the Trustees continue the bequests for many years benefiting many children.

#### A. Planning for charitable gifts in wills

- Your Will can be drafted in such a way that gifts can be made to chosen charities or to help a charitable cause, e.g. promoting education in Hong Kong
- You can also use your Will to establish your own charity or charitable foundation which can be administered according to your wishes

#### B. Establishing charities and foundations during your lifetime

- You can also establish a charity or charitable foundation during your lifetime
- Such an organization can be funded through lifetime gifts
- The benefit of creating a lifetime charity is that you can during your lifetime, shape the way in which the charity works

## VI. Probate Administration

*When a client dies, his or her Estate must be distributed by their Executors, according to their Will (or under the intestacy rules). This involves locating assets, producing accounts (and in some jurisdictions – tax returns), applying for the Grant of Probate and transferring assets to the Beneficiaries.*

*ICS TRUST is happy to act as the Executor or assist the Executors in administering the Probate. Our professional approach ensures that the probate process is completed smoothly and quickly, during a traumatic period for the family.*

#### A. Administering estates

- ICS TRUST has a team of professionals, who can act as Executors and produce probate accounts, applying for the grant of probate and distributing the estate
- This can relieve an administrative burden during a difficult time for the family

#### B. International estates

- At ICS TRUST we can co-ordinate with other professionals to obtain grants of probate in multiple jurisdictions

Mr. McQueen dies whilst resident in HK but he has houses and assets across the world in Monaco, New York, London, Paris and LA. ICS TRUST liaises with local lawyers in all these jurisdictions and coordinates obtaining the various grants of probate and transfer of assets to the beneficiaries.



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