



NEWSLETTER

**SUCCESSION
PLANNING**

**MEETING THE NEEDS OF
GLOBAL FAMILIES**



Intercontinental Trust Ltd

Welcome to our latest newsletter, where we explore the crucial topic of succession planning. Succession Planning is not just about preparing for the inevitable; but a necessity in today's business environment, where affluent families and their wealth are dispersed across various jurisdictions.

Transfer of wealth to the hands of millennials, generation Z, generation Y and shortly to generation Alpha has been accelerated with the impact of COVID-19 and as goes the Chinese proverb "rags to rags in three generations", family wealth does not last for more than three generations. The first generation makes the money, the second spends and the third sees none of the wealth!

Having appropriate infrastructure is essential not just for facilitating the seamless transfer of wealth but also for safeguarding it for the upcoming generations who possess distinct approaches and perspectives.

Does an individual really have a choice as to whom should his wealth pass on after his death?

Some jurisdictions enforce strict forced heirship rules typically based on French civil law. On the other hand common law countries generally allow for freedom of testation or of donation.

In most jurisdictions, when it concerns settlement of an estate, the general legal principles dictate that the law of the property's location (lex rei sitae) applies to immovable property, while the law of the deceased's domicile (lex domicilii) applies to movable property.

Common challenges of transmission of wealth can be summarized as follows:

- 01** Determining the relevant law: This involves evaluating factors such as:
 - the deceased's domicile, their nationality, country of death
 - location of assets
 - place of marriage celebration and laws relating to matrimony regime
 - application of Private International Law
- 02** Dealing with high inheritance taxes when transferring property to heirs.
- 03** Navigating the process of establishing probate, which verifies the validity of the deceased's will and/or beneficiaries of the deceased
- 04** Ensuring the enforceability of the will, which can involve legal complexities and disputes
- 05** Enforcing foreign wills/ multiple wills

How can succession planning be structured using Mauritius as a framework?

Mauritian succession planning law aligns with forced heirship rules, inspired from French law as outlined in the Code Civil Mauricien. These regulations aim to safeguard the interests of designated heirs, including children and surviving spouses. Similar to many other countries, Mauritius applies the dual system of Lex rei sitae and Lex domicilii to determine inheritance rights.

Will Mauritius laws apply for non-citizens owning properties, bank account, shares in Mauritius companies or any other assets? The answer to this will depend on the various factors mentioned above, the deceased's domicile, nationality, country of death, location of assets place of marriage celebration and laws relating to matrimony regime, application of Private International Law etc.

Holding immovable property in Mauritius

Given Mauritius' favorable living conditions, non-citizens often seek residence permits through property purchases in Mauritius. It is essential to note that if not properly structured, the law of the property owner's domicile or nationality shall designate if immovable property to be distributed under Lex rei Sitae. In that case, Mauritius forced heirship rules will apply, unless those assets are held through a proper structure.



How can succession planning be structured using Mauritius as a framework?

- 01 Allows to hold assets through foreign trustees out of jurisdiction with forced heirship rules
- 02 Immovable properties governed by lex situs can be converted into movable properties through shares (Trust holding SPV to hold property)
- 03 Beneficiaries of choice can be appointed
- 04 Flexibility to appoint additional beneficiaries, remove or exclude beneficiaries
- 05 Discretion on amount of interest of beneficiaries
- 06 No Inheritance tax
- 07 No probate

Assets, whether movable or immovable, placed into a Mauritius Trust by a non-citizen are under certain conditions, exempt from forced heirship rules and the succession laws of the settlor's domicile or nationality.

The settlor can appoint beneficiaries of his choice, decide on capital and income distributions among beneficiaries. Trusts are flexible instruments which allow for exclusion or addition of new beneficiaries, removal of spindrift beneficiaries, discretion on the apportionment of capital/income among beneficiaries.

Moreover, the assets put into Trust will continue to be managed under the terms of the Trust Deed and the settlor's wishes even after his death without the need of probate, will validation or inheritance tax. Those assets are distinct from the estate of the settlor.

Foundations in Estate planning

Similar to trusts, if a non-citizen transfers property into a Foundation, the property transfer cannot be invalidated or deemed ineffective based on any laws regarding succession or inheritance from their home country.

Foundations blend characteristics of trusts and companies, offering legal personality and flexibility to fulfill specific needs in ways that trusts may not. Foundations offer the same benefits as trusts (as listed above) for estate planning purposes.

Civil Partnership

Société Civile can be structured to hold one's estate ensuring proper management of the estate and exemption in certain cases from foreign succession tax.

Mauritius affirms itself as a well-established and renowned International Financial Centre (IFC) and jurisdiction of choice for succession planning. The above vehicles can be easily adapted to the requirements of wealthy families depending on jurisdiction where they reside. For instance, families with Common Law background may be comfortable with Trusts, those from Civil Law may prefer Foundation and French clients will go for Société Civile.

HOW CAN ITL ASSIST YOU?

Reach out to us if you have questions or uncertainties regarding your succession planning. Our team of experts can offer tailored solutions by strategically structuring wealth management instruments and providing tax guidance specific to the location of your assets and your residency status.

CONTACT US

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