Home Sweet Home: Residency options and succession planning for high net worth individuals

In the following pages you will find a wealth of information by IR Global's Private Client specialists who build a picture of what wealthy individuals should be looking for when addressing issues such as succession planning, trusts and overseas residency.

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IR Global – The Future of Professional Services

IR Global was founded in 2010 and has since grown to become the largest practice area exclusive network of advisors in the world. This incredible success story has seen the network awarded Band 1 status by Chamber & Partners, featured in Legal 500 and in publications such as The Financial Times, Lawyer 360 and Practical Law, among many others.

The group's founding philosophy is based on bringing the best of the advisory community into a sharing economy; a system that is ethical, sustainable and provides significant added value to the client.

Businesses today require more than just a traditional lawyer or accountant. IR Global is at the forefront of this transition, with members providing strategic support and working closely alongside management teams to help realise their vision. We believe the archaic 'professional service firm' model is dying due to it being insular, expensive and slow. In IR Global, forward-thinking clients now have a credible alternative, which is open, cost effective and flexible.

Our Founding Philosophies

Multi-Disciplinary
We work alongside legal, accountancy, financial, corporate finance, transaction support and business intelligence firms, ensuring we can offer complete solutions tailored to the client's requirements.

Niche Expertise
In today's marketplace, both local knowledge and specific practice area/sector expertise is needed. We select just one firm, per jurisdiction, per practice area ensuring the very best experts are on hand to assist.

Vetting Process
Criteria is based on both quality of the firm and the character of the individuals within. It's key that all of our members share a common vision towards mutual success.

Personal Contact
The best relationships are built on trust and we take great efforts to bring our members together via regular events and networking activities. The friendships formed are highly valuable to the members and ensure client referrals are handled with great care.

Co-Operative Leadership
In contrast to authoritarian or directive leadership, our group puts teamwork and self-organisation in the centre. The group has steering committees for 12 practice area and regional working groups that focus on network development, quality controls and increasing client value.

Ethical Approach
It is our responsibility to utilise our business network and influence to instigate positive social change. IR Global founded Sinchi, a non-profit that focuses on the preservation of indigenous culture and knowledge and works with different indigenous communities/tribes around the world.

Strategic Partners
Strength comes via our extended network. If we feel a client's need is better handled by someone else, we are able to call on the assistance of our partners. First priority is to always ensure the client has the right representation whether that be with a member of IR Global or someone else.

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FOREWORD BY EDITOR, ANDREW CHILVERS

Living, working and dying in the digital age

The baby boomers of the 1960s will have the dubious distinction of being the first generation who will continue to live on long after they've died – accolades traditionally associated with pharaohs and dictators.

Many high flyers in their twilight years have acquired digital assets that have often amassed considerable wealth during the past two decades. For instance, the owners of the website insurance.com sold the domain name for a breath-taking $35 million 10 years ago, which is an illustration of how valuable certain digital assets can become. And this amount pales into insignificance compared with the super-rich owners of successful e-commerce platforms and social networking sites.

The problem for these wealthy boomers is how do they pass on their digital assets to their families or future asset holders? They may well live on in their digital profiles, but unless they're careful the wealth they've created will be squandered by the next generation. So, how simple is succession planning in the digital age, particularly post Covid-19?

The answer is that despite endlessly inventive ways to make money, the problems with succession planning are actually as old as the pharaohs themselves. It's never been more important for successful business people to plan ahead and to clearly understand the nature and future wealth of the assets they own – brick and mortar, and digital. An issue that has always worried wealth creators regarding succession planning is who to trust to do a decent job with the inheritance – and this has never been more relevant than with today's self-made entrepreneurs.

According to a recent report by Barclays, 67% of highly successful first-generation wealth creators are very cautious about giving away their authority. These people often retain their position as head of the company into old age. The report said that 63% of elderly first-generation entrepreneurs did not consider their heirs committed to the business or have an ability to manage the business (57%). The 400 wealthy people who were polled across the globe were generally very pessimistic about leaving their wealth to be managed properly.

Nevertheless, with the recent Covid-19 pandemic, succession planning by wealth creators has come back into focus, according to a number of legal and financial advisors who are seeing a spike in private clients reassessing their business interests. The Barclays survey confirmed this by pointing out that 70% of first-generation entrepreneurs were reconsidering wealth transfer plans in light of the pandemic and were asking legal and financial professionals the best way of passing their wealth on to the next generation. The huge spending by all governments during the pandemic was a particular worry for wealth creators who see significant tax rises on the horizon and want to act now to find the most tax-efficient way of passing on their assets.

For first-generation wealth creators another method of passing down money is through trusts. This is not so much business planning but typically more funding for a grandchild's education and lifestyle – and this will be particularly relevant given the serious impact the pandemic has had on many parents' finances.

Trusts come into their own when the financial requirements of families are not clear – so a trust can become a sort of emergency fund. Nevertheless, legal and financial advisors also warn that trusts could be impacted by future government tax increases given the current global economic downturn. Indeed, even before the pandemic, the number of trusts in the UK alone had declined for the fifth year running as trusts started to fall foul of governments that no longer wanted them to be a shelter for wealth from inheritance tax.

Similar issues are now impacting business people – from first-generation wealth creators to directors in large corporates – who are working from home, often in different jurisdictions, because of the pandemic. This has been helped by the increasing use of digital technology to allow everyone to work more effectively away from their company headquarters.

Legal and financial professionals are seeing a big rise in private clients who need advice on the tax implications of taking up a semi or even permanent residence away from their office and closer to home. As with all overseas residency issues, there are tax implications depending on length of stay and the timing of tax payments and relief can still cause significant tax headaches. Other complications include social security if the person continues to work in the different jurisdiction and even the possible taxation of the business – even though it could be mostly based in another country. For example, if the business owner or director is taking important decisions, signing contracts etc, company profits could be taxed at a local level.

In the following publication you'll find a wealth of information by IR Global's Private Client specialists who build a picture of what wealthy individuals should be looking for when addressing issues such as succession planning, trusts and overseas residency.

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IR Global **Contributors**

IR Global Private Client members are highly regarded for being at the forefront of legislation in their respective jurisdictions. In what is a fast changing marketplace they are culturally informed, to ensure seamless client support and are fast becoming the 'go to' alternative for international businesses.

1 Page 8

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2 Page 10

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WDM International | Malta

3 Page 12

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4 Page 14

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VALADAS CORIEL & ASSOCIADOS

João Valadas Coriel co-founded Valadas Coriel & Associados (VCA) in 2001. Currently managing partner, he coordinates across all VCA departments. His expertise and decisiveness are sought to break deadlocks, close deals and generally to get things to the next level. He comes across as a solution-minded savvy lawyer. He has worked on many transactions and is a trusted adviser to many private clients, family offices, foundations and corporations.

He excels in leading teams and participates frequently as a speaker at workshops, seminars and conferences in his practice areas. João is also qualified as an International Arbitrator by the CIArb of London and as a tax expert by ISEG-Lisbon School of Economics and Management. João writes for national newspapers and international organisations about developments in the law, its impact on the economy and society at large and about the future of the law profession.

Tell us about Valadas Coriel & Associados

Valadas Coriel & Associados (VCA) has an energetic team of partners and associates who combine experience, expertise and innovation in dispute resolution, labour, real estate, corporate and tax.

VCA has also a strong practice focused on: private clients and the art world, assisting individuals investing or relocating to Portugal. The firm works in litigation matters for the largest Portuguese listed companies on a permanent basis.

The dynamic, yet informal work environment of VCA has attracted skilful lawyers from major law firms and 'big four' audit firms. The IR Global network and other 'best friends' agreements allow VCA to offer resources and expertise in Portugal and in other 155 jurisdictions. VCA handles each case as a project, a battle to be fought and won through shrewdness, strategy, specific and measurable targets.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Tax liability in Portugal is based only on residency status, regardless of nationality.

An individual is deemed to be a tax resident in Portugal when, in the relevant year, he remained in Portugal more than 183 days, consecutive or otherwise; or having stayed for a shorter period of time he has a permanent domicile in such conditions that demonstrates an intention to maintain it as his habitual residence. In practical terms, this means that he must either own or rent a property in Portugal.

Portuguese tax resident individuals are liable to Portuguese tax on their worldwide income.

Portugal has an attractive tax regime for those who become Portuguese tax residents (Non-Habitual Resident) that may be applicable to any individual that was not tax resident in Portugal in the preceding five years. NHR tax regime offers many advantages for a fix period of 10 years:

a) A 20% special flat tax rate for labour and self-employment income sourced in Portugal if derived from high value-added activities

b) Labour income sourced outside Portugal is not subject to taxation in Portugal if taxed in the sourced country

c) Self-employment income from a high value activity sourced outside Portugal is not subject to taxation in Portugal provided that may be taxed in the source country under a tax treaty

d) Zero tax on interests, dividends, royalties sourced outside Portugal, and if taxed in the source countries the tax so charged shall not exceed the reduced rates established in the tax treaties, usually of 5%, 10% or 15%

e) Foreign pensions received by NHR, including pension schemes with capital or lump sum payments are subjected to a special flat rate of 10%.

Non-tax residents in Portugal are only liable to Portuguese tax on their Portuguese sourced income, like real estate income or capital gains.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

In Portugal there is no Inheritance or Gift Tax between spouses, ascendants and descendants up to grandsons or great grandsons or grandfathers or great grandfathers.

Although there is no Inheritance Tax, the exemption only applies to the value of the inheritance as ascertained at the time of the passing of the deceased. Therefore, it is important to determine the exact value of the inheritance at the time of the benefactor's death for the purposes of possible income or capital gains that might be generated after the inheritance.

Other members of the family, friends or strangers are levied at a flat 10% stamp tax either on inheritance or on gifts.

The Portuguese succession legal framework has forced heirship rules and in principle you can only freely dispose of one third of your estate if you have a spouse and/or descendants.

However, a non-Portuguese citizen or even a Portuguese citizen with double or multiple nationalities might choose to establish a will according to the laws of the country of their nationality.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Portuguese law does not have a legal trust regime. Trusts held by individuals and family offices require adaptation or restructuring.

Everything from the powers of the settler, trustees and beneficiaries to revocability and liquidation need to be assessed from the Portuguese law perspective. Income distributed through trusts must also be properly assessed to avoid Portuguese income tax.

The Portuguese Government has announced its intention to draft a law regulating the use of trusts in Portugal.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

Portugal is a welcoming country and provides several types of visas to grant residence.

Most commonly:

- Golden Visa Program
- D2 visa, also known as the entrepreneur visa
- D7 visa, also known as the self-sufficient visa.

In the Golden Visa Program, the applicant is required to choose from eight investment options. The minimum investment in real estate starts at €280,000 for a property to be renovated in a low-density area; €350,000 for a property to be renovated in a high-density area; and €500,000 for a regular and ready to use property. Investments in alternative funds start at €350,000 and is becoming increasingly popular. A Golden Visa is valid firstly for two years, renewed twice for two periods of two years each, requiring a minimum stay of seven days per year.

D2 visa is appropriate for those willing to become residents and who are willing to either invest in Portugal (in an existing company, a specific business, etc.), perform a professional activity through the incorporation of a company, or perform a professional activity as a self-employed worker. To keep the residence, a self-employed worker will have to earn at least the equal to a monthly minimum salary. The difference between this visa and the Golden Visa is the minimum stay requirement. Applicants will have to live at least four months per year in Portugal provided they are not absent from Portugal more than six months in a row or eight interpolated months per year.

D7 visa is the easiest, cheapest and quickest route to apply for Portuguese residence. To apply, applicants must have personal revenue from movable and immovable property, intellectual or financial assets. Given this, should the applicant hold bank account deposits, receives rents or dividends, pensions, or any other kind of income generated abroad, he/she will be eligible. According to Portuguese law, applicants for the D7 visa must provide proof of sufficient means corresponding to a monthly net equal to the Portuguese minimum salary, currently €635,000. The minimum stay of the D7 visa is the same as the D2 visa, namely four months per year and both are valid for a first period of two years renewed for periods of three.

Top Tips – What are the most common tax relief options available in Portugal?

- There is no Gift or Inheritance Tax between spouses, ascendants or descendants. Other members of the family, friends or strangers are levied at a 10% stamp tax
- There is no Wealth Tax or tax on large estates or fortunes. However, bank accounts held abroad must be disclosed in the annual income tax return (that information is also communicated under CRS rules)
- There is no capital gains on the sale of second-hand valuable goods: art, classic cars and other collectibles, unless for professional traders
- There is no taxation on income or gains from crypto currencies unless for professional trader
- Real estate tax reliefs when investing in properties in Portugal related with urban rehabilitation or urban renewal such as benefits under Property Transfer Tax (IMT), Property Tax (IMI) and Personal Income Tax (IRS). Reduced rates for real estate, dividends and interests sourced in Portugal.

MALTA

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Dunstan Magro graduated as an accountant in 1997 from the University of Malta after carrying out research and writing a dissertation entitled: "The Financial Implications of Joint Ventures and Mergers within the Perspective of the Competition Act". He continued his studies in 2010, reading for a Masters' Degree in Business Ethics with the University of Malta and carrying out research in the field of ethics in taxation.

He is the managing partner and founder of WDM International (formerly known as W&D), a multidisciplinary audit, tax, corporate and business advisory firm. After having worked for a Big Four audit firm, Dunstan joined his father Winston Magro, a respected tax practitioner, to form what is known today as WDM International. Dunstan provides local and international clients with advice and consultancy in relation to audit, tax and advisory matters. To this end, in his more than 22 years of experience, Dunstan has advised a multitude of clients in relocating their business and private interests to Malta.

Tell us about WDM International

WDM International is a full-service Maltese firm that was founded in 1994. Truly entrepreneurial in character and form, the firm offers a multidisciplinary service to local and international clients ranging from tax and corporate consultancy to accountancy, audit, business advisory and back office services.

The firm prides itself on a large client portfolio spread over a broad range of industries, from financial services operators to entrepreneurs and high net worth individuals. The firm is at the forefront in offering consultancy in a number of lines of expertise, amongst which

- the international and local tax advice geared towards tax efficient business planning;
- private clients, high net worth individuals and family office structuring;
- governance, risk management and control;
- corporate structuring;
- registration of aircraft, yachts and commercial vessels

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Depending on the residence and domicile of the individual (or corporate entity), liability to Maltese income tax arises;

- on a worldwide basis,
- on a remittance basis,
- on a territorial basis.

Worldwide basis of taxation

Persons who are ordinarily resident and domiciled in Malta and persons who hold the status of long-term resident or are in possession of a permanent residence certificate or a permanent residence card are subject to the worldwide basis of taxation on their income. Under the worldwide basis of taxation, all income and capital gains are subject to Maltese tax regardless of where they arise and where they are received.

Remittance basis of taxation

The remittance basis applies to persons who are either not domiciled or not ordinarily resident in Malta. The remittance basis also applies, under certain conditions, to returned migrants.

Under the remittance basis of taxation,

- all income arising in Malta is subject to tax, regardless of where it is received;
- income arising outside Malta is subject to Maltese tax only if and to the extent that it is received in Malta;
- capital gains arising outside Malta are not subject to tax, even if they are received in Malta.

Subject to certain limitations, individuals to whom the remittance basis of taxation applies are subject to the special rule providing for a minimum tax liability of €5,000.

Territorial basis of taxation

Persons who are not resident in Malta are subject to tax only on income arising in Malta (territorial basis). Certain exemptions may be available, including the exemptions for non-residents.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

Malta's succession law, which is mainly regulated by the Maltese Civil Code, regulates testate succession, the drafting of wills and intestate succession, and provides for solutions to such issues and disputes. There are three ways of transferring the estate of the deceased individual:

- through the express disposition of the law in the form of a will;
- through pre-determined modes of disposition by operation of the law if no will is presented;
- through a trust.

Most people prefer to decide for themselves on how their assets will be disposed of when they pass away. For many, this often takes the form of a will. Alternatively, a trust allows more flexibility and serves an ideal medium for estate planning.

Although there is no inheritance tax in Malta, the succession of immovable property of a deceased person, better known as a declaration cause mortis, is subject to stamp duty on the market value of the property in question.

The basic rate of duty is 5% on the market value of the property as on date of death. A reduced rate of 3.5% on the first €175,000 of the value applies for those inheriting a property that is already used as their sole residence. There are other exemptions such as when the surviving spouse inherits the share of the deceased spouse of their sole residence. The children are also exempt from duty when they inherit the residence of their parents.

This is applicable to immovable property situated in Malta, irrespective of the place of residence and nationality of the heirs.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Malta trust law establishes trusts, created via a trust deed, as a sound legal institute which caters for the formal transfer of assets by the settlor, wherein the trustee safeguards the assets for the benefit of someone else, the beneficiaries.

The delineation between legal and beneficial ownership is what makes trusts such a unique method of asset protection. Legal ownership belongs to the trustee while beneficial ownership rests with the beneficiaries.

A foundation, which can be constituted by virtue of a public deed or a will, is another legal institute under Maltese law that has been long established and the benefits of which are largely recognised. Undoubtedly, the most popular feature of trusts and foundations is the possibility of being able to create a distinct patrimony, and their use is most notably associated with estate planning, consolidation of ownership, separation of economic interests from other types of benefit, protection of minors or disabled persons and the protection of family wealth.

Since 2014, Malta introduced Private Trust Company provisions into its trusts legislation through the introduction of the concept of a trustee acting for a family trust as the corporate equivalent of the private individual trustee.

The Maltese Civil Code also recognises an Association, defined as an agreement that is entered into between a minimum of three persons. Associations can be set up for different purposes, namely for the fulfilment of private interests, the promotion of trade or a profession, the obtainment of a social purpose, as well as for the carrying on of any lawful activity on a non-profit making basis.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

Malta has over the years been chosen as an ideal relocation base. Malta's lure as a popular residency destination can be attributed to a number of factors amongst which one can find the

- remittance basis of taxation for resident non-domiciled persons,
- extensive network of double tax agreements, and
- straight forward monetary repatriation of funds to Malta by HNWIs.

Briefly, HNWIs can choose from a number of residency programmes suiting their different needs, namely:

Global Residence Programme – ideal third country nationals (not EU/EEA/Swiss nationals), granting a special tax status to non-domiciled residents of Malta. Beneficiaries will be subject to tax at a rate of 15% on any foreign sourced income received in Malta, with the minimum amount of annual tax payable being €15,000. Likewise EU/EEA/Swiss nationals would be granted the same special tax status when applying for The Residence Programme.

Highly Qualified Persons Rules – grants a special tax status to individuals occupying an "eligible office" with companies licensed and/or recognized by the Competent Authority regulating the specific sector. Employment income is subject to tax at a flat rate of 15% provided that the income amounts to at least €75,000 adjusted annually in line with the Retail Price Index. The 15% flat rate is imposed up to a maximum income of €5,000,000, with any excess being exempt from tax.

Malta Residence and Visa Programme – ideal for third country nationals (not EU/EEA/Swiss nationals) who are in receipt of stable and regular financial resources, sufficient to maintain themselves and their dependants, without recourse to the social assistance system of Malta. Beneficiaries obtain residency in Malta, with Visa-free travel across the Schengen zone.

Other residency programmes include – The United Nations Pensions Programme, the Malta Retirement Programme, the Malta Individual Investor Programme and the Malta Ordinary Residence Scheme.

Top Tips – What are the most common tax relief options available in Malta?

- Double tax treaty relief
- Unilateral relief
- Commonwealth relief
- Flat rate foreign tax credit (FRFTC)

CYPRUS

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Stella Strati is the Corporate Finance, Tax, Private Client Partner of Patrikios Pavlou & Associates LLC and General Manager of its affiliated Pagecorp Group, an Administrative Service Provider.

Stella has extensive experience in corporate and commercial law, tax law, M&A, restructurings and reorganisations, joint ventures and banking and finance transactions across a range of industries. She provides advice in relation to the settlement of Cyprus International Trusts and Private Client issues. She is also a member of IBA and STEP, she participates as speaker and panelist in seminars and conferences in Cyprus and abroad and she contributes to numerous publications.

Stella is also certified with the Advanced Diploma in International Taxation (ADIT) by the CIOT, and she is recommended by the Legal 500 as a leading individual and a great partner, always available for communication.

Tell us about PageCorp Group

Pagecorp Group is an administrative service provider of global corporate and other related services, based in Limassol, Cyprus.

Licensed by the Cyprus Securities and Exchange Commission and with more than 20 years' experience, the Group advises major local and international organizations, institutions and groups, as well as start-ups and entrepreneurs, on all aspects of their business requirements in order to reach their commercial goals.

The lawyers, legal consultants, company administrators, accountants and secretarial staff of the Group assist on local and international group structures, international tax planning, Cyprus International Trusts and on all tax, accounting audit and assurance matters.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Tax liability for individuals is determined from residence. An individual becomes a Cyprus tax resident if they reside here for 183 days in the assessment year.

Someone will be considered as a Cyprus tax resident if he/she (a) resides in Cyprus for one or more periods within the same tax year for at least 60 days (b) does not reside in any other country for more than 183 days (c) is not considered a foreign country tax resident (d) carries out business or is employed in Cyprus and/or is a director in a local tax resident company and (e) has a permanent place of living in Cyprus. All these conditions need to be met.

Someone who is a tax resident but "non-domiciled" in Cyprus is exempt from Special Defence Contribution, a tax payable on passive income. Domicile is defined in accordance with the provisions of the Wills and Successions Law; domicile of origin is acquired at birth and domicile of choice is acquired by the creation of a permanent home. Individuals who have maintained a domicile of choice abroad, provided they were not Cyprus tax residents for at least 20 consecutive years prior to the relevant tax year, are considered non-doms. This also applies to persons who were not Cyprus tax residents for at least 20 consecutive years immediately prior to the entry into force of the relevant provision. Someone remaining a Cyprus tax resident for at least 17 years is considered Cyprus domiciled.

Cyprus tax residents are taxed on their worldwide income. Also, Cyprus grants credit for any foreign tax suffered on foreign income, irrespective of any double tax treaty.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

There is no inheritance tax in Cyprus.

Any person over 18 of sound mind has the right to make a will for the disposition of his/her estate. The right of a person to dispose of his/her estate by will is limited to the disposition of only one part of the estate, the "disposable portion". If the deceased left a child or a child's descendant, then the disposable portion shall not exceed one-fourth of the net value of the estate. If the deceased left a spouse or parent, but not a child or a descendant of a child, then the disposable portion shall not exceed half of the estate. If the deceased left neither a spouse nor a child or a descendant of a child, nor a parent, then the disposable portion shall be the whole estate.

In cases where persons domiciled in Cyprus die intestate, their estate shall be distributed as it is statutorily prescribed among the entitled relatives. When an individual dies without leaving a will then the court grants a 'letter of administration to an individual' (the administrator), in order to administer the estate. On the other hand, if the testator wishes that a specific person administers his/her estate (the executor) and states this provision in the will, upon proof of the will, the court shall issue a probate whereby the administration of the estate of the deceased shall be granted to that person.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Trusts are recognised in Cyprus. The Trustees Law is the main statute applicable to local trusts, while The Cyprus International Trusts Law applies to Cyprus International Trusts (CITs).

In a CIT the settlor is a foreign tax resident during the year prior to the CIT creation, the beneficiaries are not Cyprus residents but may relocate to Cyprus a year after the trust settlement and at least one trustee must be a local resident.

A CIT or a transfer of trust assets may only be set aside by the settlor's creditors if proven that the CIT was created with the intent to defraud them. An action must be brought within two years from the date of the transfer of assets and only regarding those assets.

There are trust registries in Cyprus which contain: the name of the trust, name and address of every trustee, the date of trust establishment (or termination), the date of any change in the governing law. The trustee must notify its respective competent authority of the above within 15 days from the creation or termination of the trust or the adoption of Cyprus law as the law governing the trust.

A Cyprus trust is not a taxable person. Its income is assessed in the name of the trustee, but since the beneficiaries are the persons entitled to the income, they are liable for any tax thereon. Trustees need to follow a matching approach when making distributions to the beneficiaries, so any Cyprus tax is deducted and paid.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

Individuals may permanently relocate to Cyprus either through one of the various options for work-related establishment permit or through a permit that will allow them to have income from all sources, other than paid employment within Cyprus. Of course, with Cyprus being a full EU member, EU and EEA nationals enjoy freedom of establishment and employment in Cyprus and do not require to obtain a permit. Foreign-owned companies may also, upon obtaining a special licence, employ key personnel from third countries, therefore facilitating the establishment and transfer of foreign-owned companies and bringing key staff and their families from third countries.

HNWI individuals can benefit from the fast-track applications for permanent residence permits provided they have invested in residential real estate of at least EUR300,000. A permanent residence permit enables them to freely enter Cyprus and then may easily obtain a Schengen visa to freely travel throughout the EU (as Cyprus is not part of the Schengen zone).

The Cyprus Investment Programme, which may grant Cypriot citizenship to investors of more than EUR2 million in Cyprus, is currently unavailable as the Cypriot Government seeks to relaunch the Programme in the future, following consultation with all stakeholders in order to promote foreign companies relocating to Cyprus. It is expected that any new scheme will require serious investments and contain incentives to entice new businesses and start-up companies to relocate and/or establish in Cyprus.

Top Tips – What are the most common tax relief options available in Cyprus?

- **No withholding taxes:** Cyprus does not apply any withholding taxes on dividends or interest paid to non-residents.
- **Exemption from Special Defence Contribution (SDC):** SDC is payable by Cyprus tax residents and domiciled individuals on passive income.
- **Expatriate relief:** Individuals not Cyprus tax residents for three out of the last five years prior to commencing employment in Cyprus and who were not Cyprus tax residents in the previous year, and provided that they receive emoluments over EUR100,000 per year, are granted a tax deduction of 50% on emoluments for 10 years.
- **Tax relief for foreign tax paid:** Any foreign tax suffered is credited against the equivalent Cyprus tax on the foreign tax suffered. But the tax credit in respect of the foreign tax cannot exceed the equivalent Cyprus tax.
- **Profits from the disposal of shares and other titles:** Profits from the disposal of titles are exempt from any tax in Cyprus.

ENGLAND

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Graeme Kirk is a partner and head of the immigration department of Ellisons Solicitors incorporating Gross & Co., Bury St Edmunds. Graeme has specialised in business immigration law since 1981, founding and developing the immigration practice of the firm's team primarily through recommendations from clients and other professionals.

Since 1981, he has acted for clients from all over the world, and his current immigration client list includes major listed British and foreign corporations, international banks, as well as smaller companies and entrepreneurs. He acts as a consultant in UK immigration law for many UK solicitors and foreign law firms. Graeme deals with all aspects of business and private client immigration (other than asylum) including the UK points-based system, and family immigration. Graeme is listed in the Who's Who Legal 2019, which recognises leading international solicitors in their specialist fields.

Tell us about Ellisons Solicitors

Ellisons Solicitors is one of the oldest, but fastest-growing firms in the East of England having been founded more than 250 years ago.

Ellisons offers a comprehensive range of services to corporate and private clients including: commercial property, immigration, residential property, dispute resolution, wills, trust and probate, insurance litigation, employment and HR, corporate and commercial, financial advice, international services and many other areas, which are listed on the website.

Ellisons is a firm of almost 250 staff, including 25 partners. The firm has seven offices located across Essex and Suffolk: Colchester, Chelmsford, Ipswich, Bury St Edmunds and Tendring (Harwich, Clacton-on-Sea and Frinton-on-Sea), alongside an office in London.

IMMIGRATION FOCUS

UK residence options for high net worth individuals

With the end of the transitional period with the EU on 31 December 2020, the UK Government has introduced substantial changes to the UK Immigration Rules but, by and large, these will not affect high net worth individuals wishing to come to the UK.

The main route for high net worth individuals who wish to take up residence in the UK and retain total flexibility as to whether they carry out any work or business activities in the UK, will remain the Tier 1 (Investor) category.

This category requires a successful applicant to invest £2 million of their own money in qualifying investments, which are basically the share or loan capital of UK registered and trading companies not primarily engaged in property development or property management.

The applicant is required to provide a paper trail for the minimum £2 million to be invested for a period of two years prior to the date of their visa application. This does not necessarily mean that the applicant has to prove that they have held £2 million in a bank account for two years. It is possible to provide evidence, for example, of a gift to the applicant, a distribution from a trust fund or the proceeds of the sale of a property or assets. But the fundamental point is that, however the £2 million funds have been put together, a two-year paper trail is required to prove that the funds to be used for the purposes of the application have been worth at least £2 million throughout the required two-year period and have come from legitimate sources.

If the funds are held outside the UK, then it will also be necessary to satisfy the UK Home Office that the funds can be legally transferred to the UK under the law of the country in which the funds are currently held. Assets or that which have been transferred to the UK in the 12 months prior to the date of the application can also be included in the £2 million figure.

Unlike all other applications for residence in the UK, there is no English language requirement under the Tier 1 (Investor) category.

A successful applicant will be issued with an initial visa for three years and is entitled to apply to bring his/her spouse/unmarried partner and any children under 18 to the UK as part of the family unit. There is a requirement, should the applicant wish to apply for Indefinite Leave to Remain (permanent residence rights) after five years (or under the accelerated settlement route referred to below) not to spend more than 180 days in any rolling period of 12 months outside the UK during the period of residence. In calculating the 180 days of absence, the Home Office ignores the date of departure from the UK and of arrival back to the UK. As regards the family members, the Home Office will require the spouse/unmarried partner to meet the same residency requirements, but there is no specific requirement for children to spend the required period of residence in the UK.

The applicant has to invest the funds within three months of their arrival in the UK and maintain the investment throughout the period of residence. The nature of the investment can change e.g. stocks and shares can be purchased and sold, but all costs and expenses incurred in changing the investments will be deducted from the £2 million investment, although the investments themselves may decrease in value below £2 million.

The applicant who has invested £2 million will be eligible to apply for Indefinite Leave to Remain with his family after five years of residence, subject to passing the Life in the UK Test and also meeting the required English language requirement.

With the Tier 1 (Investor) programme there are two ways of obtaining accelerated rights of settlement in the UK. These are:

1. If the applicant invests £5 million in qualifying investments and meets all the other requirements for Indefinite Leave to Remain, an application can be made three years after the £5 million investment has been made in the UK.
2. Similarly, if the investor invests £10 million in qualifying investments in the UK and meets all the other requirements for Indefinite Leave to Remain, Indefinite Leave to Remain will be granted two years after the investment was made.

If the investor wishes to apply for British citizenship after acquiring Indefinite Leave to Remain, then an application can be made after six years of residence in the UK with the basic £2 million investment and five years if this investment is £5 million or £10 million. However, the residence requirements to become a British citizen are much stricter than for Indefinite Leave to Remain.

As well as the Tier 1 (Investor) category, it is worthwhile for a high net worth individual who wishes to carry out business activities in the UK to consider whether one of the following routes meet their objectives, and which would not require the investment of substantial funds in the UK:

1. Representative of an overseas business
2. The Innovator visa
3. Global Talent visa

All of these visas lead to permanent residence rights in the UK and the Global Talent visa can lead to permanent residence rights after three years.

The main disadvantage of the UK Immigration Rules for the high net worth individual, when compared with other jurisdictions e.g. Portugal, is the requirement to spend a substantial amount of time in the UK over the period of residence. There is no suggestion that the UK Government is minded to reduce these requirements in the short- or medium-term.

Once an applicant has been granted Indefinite Leave to Remain in the UK, such rights are retained forever, unless the applicant is outside the UK for a period of two years without returning as a resident. Once an individual holds British citizenship, then such citizenship lasts for life, and there is no specific requirement to live in or return to the UK within any particular time period, although the applicant will have been required to make a statement confirming their intention to reside in the UK at the time of their citizenship application.

> *"With the end of the transitional period with the EU on 31 December 2020, the UK Government has introduced substantial changes to the UK Immigration Rules but, by and large, these will not affect high net worth individuals wishing to come to the UK."*

CURAÇAO

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Luis Santine is the founder and managing director of InfoCapital and CX Pay. He has an extensive international network and proven track record in supervising and directing companies. Luis is able to execute and lead projects in different sectors and has built significant expertise in fiduciary and corporate services, providing corporate governance, and leading the management of payments and e-commerce activities.

On an executive level, Luis has occupied and is still active as executive or supervisory board member of various public, private and charity organisations. Luis holds an MBA degree in Entrepreneurship & Management and a B.S.B.A. degree in International Business in Finance from the American University in Washington, D.C. and is proficient in Dutch, English and Spanish, in addition to Papiamentu.

Tell us about InfoCapital N.V. Advisory & Management

Based in Curaçao, InfoCapital is a diversified provider of advisory services related to cross-border business solutions and transaction services in the private and public sector, including SMEs, start-ups, and international organisations. The company's expertise and solutions are found primarily in the areas of corporate and fiduciary services, C-Level interim assignments and supervisory board positions, exchange listing and capital raising services, investor permit and investment promotion services, e-commerce and e-payment solutions, and advice to financial institutions regarding new payment methods and correspondent banking solutions. On an executive level, InfoCapital's representative, Luis Santine, has occupied various supervisory board positions for private companies, government-owned entities and NGOs. For more info, please visit: www.infocapital.cw

About Curaçao

Curaçao is a unique Caribbean island with strong ties to the Netherlands (and the rest of Europe), the United States of America and Latin America and the Caribbean. Doing business in Curaçao, one can make use of preferential arrangements when exporting to Europe (making use of the Overseas Countries and Territories status) and the United States (under the Caribbean Basin Initiative agreement).

Curaçao has traditionally had strong ties to Latin America and the Caribbean, given the flow of migration and its proximity to the continent. Contrary to many other Caribbean islands, tourism is not the only well-developed sector. The Curaçao economy is diversified: logistics, the international financial sector, transnational education, and oil processing are also important economic pillars.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Residents are taxable on their worldwide income. Non-residents are taxable only on income derived from certain Curaçao sources. A resident individual who receives income, wherever earned, is subject to income tax in Curaçao. Residence is determined based on an individual's domicile (the availability of a permanent home) and physical presence, and on the location of an individual's vital personal and economic interests.

Resident and non-resident entities, including branches of foreign companies, are taxed at a standard rate of 22%. However, different rates may apply with respect to the innovation box, tax holiday, Curaçao Investment Companies (CICs) and the regime for designated activities. Withholding taxes are not imposed on remittances of profits by branches to their foreign head offices.

Corporate income tax is levied on resident and non-resident entities. Resident entities are those incorporated under Curaçao laws, even if their management is located abroad, as well as entities incorporated under foreign law, but effectively managed in Curaçao. For resident entities, corporate income tax is, in principle, levied on the aggregate amount of net profits earned from a domestic enterprise during the entity's accounting period. Income that is derived from foreign entrepreneurial activity is excluded from the taxable base. Non-resident entities are subject to tax on specific Curaçao income items, such as profits earned through a permanent establishment and income related to real estate property in Curaçao, including interest derived from a mortgage on such real estate property.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

There are no forced-heirship rules. Everyone above 16 years of age is entitled to make a last will and they are completely free to dispose of their estate. There is a complete freedom of making wills. Last wills are made by notarial deed. By exception, wills are made by private deed and deposited with a notary, who makes a notarial deed of deposit to be signed by the notary and the testator.

Inheritance and gift tax are levied on the net amount of the assets and debts acquired upon death or through bequest by an individual who is a resident or deemed to be a resident of Curaçao at the time of death or donation.

For individuals who are nonresidents at the time of death or donation, inheritance and gift tax are levied on real estate located in Curaçao only. The tax is payable by the heir or the recipient of the gift, regardless of his or her place of residence. Inheritance and gift tax rates range from 2% to 24% of the value of the taxable estate or the donation, less deductions. The rates vary, depending on the applicable exemptions and the relationship of the recipient to the deceased or the donor.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Foreigners can set up trusts in Curaçao offering complete corporate and income tax exemptions if they do not carry out commercial business activities. Passive income is tax free. However, US citizens and others paying taxes on global income must reveal all income to their governments. A Curaçao trust is subject to profit tax and can benefit from investment allowance participation exemption, depreciation and loss compensation.

Curaçao corporate income tax legislation offers the option for private foundations and trusts to be subject to a reduced effective corporate income tax rate of 10%. In principle, Curaçao private foundations and trusts are subject to a 0% corporate income tax rate if they do not conduct an enterprise. After the option is exercised, the reduced effective rate of 10% applies for a period of at least three full fiscal years. After this three-year period, the private foundation can request to discontinue being subject to the reduced effective rate of 10%.

The Curaçao trust is a tax resident of Curaçao. However, the trust is not subject to a profit tax of 22% if:

- Trust activities involve passive income
- The trust does not carry out a business.

Receipts from and distributions to a non-resident are not subject to Curaçao gift tax. Curaçao transfer tax may be due on the transfer of, for example, real estate situated in Curaçao or ships registered in Curaçao to or by the Curaçao trust.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

In general, foreign individuals who wish to reside and work in Curaçao need residency and working permits. The conditions for obtaining such permits depend on the nationality of the individual. Special provisions apply to individuals holding a Dutch passport and individuals holding a US passport. Wealthy individuals (investors) who meet certain conditions are granted through a simplified procedure a residency permit known as an Investors Permit.

To facilitate the stay of high net worth investors who wish to reside in Curaçao for a period of more than six months per year, the Government of Curaçao by Ministerial Decree of 26 September 2014 approved the Individual Investors Permit, making it possible for High Net Worth Individuals (HNWI) to obtain a residence permit for Curaçao.

The goal of the Guidelines Investors Permit is to facilitate investments in Curaçao (among others, purchase of real property or making a business investment) by high net worth foreigners, thus contributing to the country's economy.

The permit is issued for a period of one or more years, depending on the amount of the investment. Subsequent permits will be issued for similar periods if the requirements for the residence permit are met. A 3-year permit requires an investment of US$281,000, while a five-year permit is obtainable at an investment of US$420,000. HNWIs can qualify for an indefinite permit with an investment of US$838,000. In addition, applicants are required to have a private health insurance policy.

Top Tips – What are the most common tax relief options available in Curaçao?

TAX INCENTIVES/RELIEF:

- Reduced tax rates and other tax incentives (tax holidays) are available to new business enterprises that engage in certain activities, including tourism, land development, retail and wholesale. Tax losses may be carried forward to offset taxable profits in the following 10 years.
- Incentives are available for companies under the E-zone legislation which offers tax incentives to trading companies that are in a designated economic zone. However, these companies must be focused on certain set activities.
- A reduced profit tax rate of 3% may apply for designated activities that derive income from certain activities, including support services, warehousing and ancillary logistic services and fund management and fund administration services.
- Companies that conduct activities under the new reduced profit tax regime of 3% must have real presence in Curaçao and must perform their core income-generating activities in Curaçao.
- A Tax holiday incentive is available for newly incorporated companies that contribute to broadening the local economic base.

US – NEW YORK

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Scott Sambur is a partner in the Trusts & Estates group at Seward & Kissel LLP. Scott represents fiduciaries and individuals with substantial net worth throughout the full range of estate and transfer-tax planning and administration, focusing on the transfer of assets to beneficiaries at the lowest tax cost while achieving overall family and charitable objectives. He advises clients on tax-effective strategies to shift future wealth and existing wealth, using sophisticated trust planning, family investment vehicles, life insurance and charitable giving. Scott works closely with members of the taxation, investment management and maritime groups at Seward & Kissel to craft comprehensive solutions addressing clients' family and business planning objectives.

Scott advises clients on techniques for charitable giving, including the establishment and administration of charitable foundations, while helping clients to navigate the complicated rules governing the directors and officers of private foundations. He has worked with numerous clients to set up charitable split-interest trusts, helping the charitably-inclined to give large sums to worthy causes while at the same time transferring considerable wealth to members of their families on a tax-advantaged basis.

Tell us about Seward & Kissel LLP

Seward & Kissel, founded in 1890, is a leading US law firm with an international reputation for excellence. We have offices in New York City and Washington, D.C.

Our practice primarily focuses on corporate and litigation work for clients seeking legal expertise in the financial services, corporate finance and capital markets areas. The firm is particularly well known for its representation of major commercial banks, investment banking firms, investment advisers and related investment funds (including mutual funds and hedge funds), broker-dealers, institutional investors and transportation companies (particularly in the shipping area).

Our attorneys are very experienced and highly regarded in their respective practice areas. Many have been with the firm for most, if not all, of their legal careers. Our focus and expertise, combined with the firm's stability, have enabled us to create a work culture that is dedicated to professional excellence and sound judgment, and that is committed to providing our clients with effective, high quality, hands-on legal service.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

The U.S. income tax is imposed on the worldwide income of U.S. citizens, lawful permanent residents (i.e. "Green Card" holders) and individuals who meet the "Substantial Presence" test (described below). In addition, non-resident aliens are taxed on all income that is effectively connected with a U.S. trade or business, and U.S.-source interest (other than bank interest), dividends, rents and royalties (known as "FDAP" income) are subject to a withholding tax of 30%, unless reduced by treaty.

The Substantial Presence test is determined by the following formula: days (including partial) present in the U.S. in the current tax year (which must be at least 31), plus days present in the prior tax year divided by three, plus days present in the second year before the current year divided by six. If the sum of this calculation equals or exceeds 183, then the person is considered resident for the current tax year. Under this calculation, an individual can spend up to 121 days in the U.S. each year without becoming a resident under the substantial presence test. An individual can be present in the U.S. for up to 182 days in the current tax year without becoming a resident if the individual has a documented closer connection to a foreign country. (This position must be certified to the U.S. Internal Revenue Service ("IRS") each year to be effective.) Non-resident alien students, scholars and employees of foreign governments and certain international organizations are generally exempt from the substantial presence test, although they are subject to tax on U.S.-source capital gains if present in the U.S. for 183 or more days.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

The gift, estate and GST tax (collectively, "transfer taxes") are imposed on gifts or bequests by U.S. citizens or domiciliaries (including Green Card holders).

The U.S. transfer tax system is three pronged: a gift tax applies to certain transfers made during life; an estate tax applies to certain transfers taking effect at death; and a GST tax is imposed on certain transfers made during life or at death (or at the time of distribution in the case of a transfer from a trust) to a person (a "skip person") more than one generation below the transferor.

The U.S. imposes a gift tax on donative transfers from a U.S. citizen or domiciliary to donees other than a U.S. citizen spouse or charity, except with respect to certain transfers for a donee's education or healthcare. The U.S. imposes an estate tax on the taxable estate of a U.S. citizen or domiciliary. A U.S. citizen's or domiciliary's taxable estate consists of his or her worldwide gross estate, valued generally as of date of death, reduced by various deductions (such as debts, administration expenses, qualified distributions made to or for the benefit of a surviving U.S. citizen spouse or charity) and credits. The U.S. imposes a GST tax on (1) outright transfers to skip persons, including trusts where all of the beneficiaries are skip persons, (2) distributions from certain trusts to skip persons, and (3) the assets of a trust where all of the remaining beneficiaries are skip persons upon the death of the last beneficiary who was not a skip person.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Trusts are recognized and permitted in the U.S., and their use is widespread. Trusts are generally governed by state rather than federal law, and as a result the laws governing trusts vary between states (although more than half of states have enacted some form of the Uniform Trust Code). In addition to the normal flexibility that trusts provide with respect to distributions and control, trusts also have considerable income and transfer tax advantages.

For federal income tax purposes, a trust is classified as either a U.S. trust or a foreign trust. A U.S. trust is any trust where (i) all substantial decisions are made by a U.S. Person (the "Control Test"), and (ii) a court within the U.S. exercises primary supervision over the trust's administration (the "Court Test"). A foreign trust is any trust that does not meet both the Control Test and the Court Test. Distributions from foreign trusts to U.S. taxpayer beneficiaries are subject to onerous reporting and tax rules.

Both U.S. and foreign trusts can be classified as either "grantor trusts," whereby the grantor of the trust pays the income taxes owed on trust income, or "non-grantor trusts" that pay their own taxes as separate taxpayers. Each has advantages and disadvantages depending on the situation. In addition, an individual's exemption from the GST tax can be allocated to assets in certain types of trusts, allowing the trusts to avoid any gift, estate or GST tax for 100 or more years.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

The U.S. has strict rules for obtaining a long-term visa for entry into the country. Visas can be obtained for work, study or visiting family. Each type of visa (there are 185 different types) has different requirements. Green Card holders are generally permitted to enter the U.S. without a visa.

There are several visa options that are appealing to wealthy foreigners wishing to relocate to the U.S.

The E-2 visa is available to the principals of companies that are at least 50% owned by citizens of countries that have qualifying treaties with the U.S. To qualify, an applicant must have made a substantial equity investment in an active commercial U.S. business. E-2 visa are renewed indefinitely every two years and are considered non-immigrant visas. An E-2 visa is somewhat unusual, in that it potentially could allow an individual to remain in the U.S. for many years while continuing to claim domicile elsewhere, thereby avoiding U.S. estate, gift and GST tax rules.

The EB-5 visa is available to individual who invest between $900,000 and $1.8 million in a U.S. business (depending on the location of the business). The investment must create at least 10 permanent full-time jobs for U.S. workers. EB-5 visas are immigrant visas, and the applicant and his or her dependants will be granted conditional permanent resident status upon approval. Many EB-5 applicants are unaware until it is too late that obtaining an EB-5 visa will result in U.S. income taxation on their worldwide income, as well as estate, gift and GST tax on their worldwide assets.

Top Tips – What are the most common tax relief options available in the US – New York?

For individuals planning to relocate to the U.S., the most common tax relief options are:

- Entering on an E-2 visa, as discussed previously, to avoid consideration as a domiciliary for U.S. gift, estate and GST tax, and also to avoid a mark-to-market expatriation tax on departure.
- Transferring assets into certain irrevocable trusts more than 5 years prior to entering the U.S., in order to shelter those assets from U.S. income tax while resident in the country.
- Transferring assets into irrevocable trusts for the benefit of descendants prior to entering the U.S. in order to avoid the gift, estate and GST taxes.
- Purchasing a large private placement life insurance policy will allow assets to grow free of U.S. federal and state income tax for so long as the individual is in the U.S., although investment options are more limited than in a taxable account.

PANAMA

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Alvaro Almengor — Alvaro is a Panamanian lawyer with more than 15 years' legal experience in Litigation, Corporate and Taxation law. In 2005, he qualified as a lawyer with distinctions at the University of Panama. In 2017, he also qualified as a Certified Public Accountant with distinctions at the University of Panama.

Alvaro specializes in civil, commercial, employment and administrative law and Panamanian tax. He advises international clients on cross-border transactions and offshore structures and provides local Panamanian legal and tax advice to international and local business and high net worth families and individuals.

Manuel Carrasquilla — Manuel specializes in Corporate, Commercial and Immigration Law. He advises high net worth individuals and foreign companies on Panama immigration matters, company establishment and regulation and the acquisition of local properties. Manuel studied Law and Political Science at the University of Panama as is currently studying for a Masters Degree in Private Law with emphasis on Commercial Law.

Tell us about Hatstone

Hatstone is a leading multi-jurisdictional group providing legal, investment fund administration, trustee and corporate services with offices in BVI, Jersey, London, Panama and South Africa.

About Panama

Following demand from our clients and intermediaries, over 6 years ago the Hatstone Group helped to establish the Panamanian law firm Hatstone Abogados to promote the services it offers throughout Latin America and the US. Being based in Panama, means the team are able to meet regularly with our Latin American and US clients and their advisors, providing assistance to them in their time zone.

From our Panama City office, we market the full spectrum of Panama legal and corporate services including immigration, tax, litigation, private client and commercial legal advice together with company and foundation incorporation.

Panama is a leading international finance centre. It is a commercially active and expanding jurisdiction that has great connections with Latin America and the US. Panama is widely known as a strategic hub for commerce in the Americas with its dollar-based economy and well-established services sector. With the canal expansion project there has been a boom in economic growth in Panama during the last few years.

QUESTION 1 — TAX

What issues determine tax liability in your jurisdiction – for instance, residence and citizenship – and in which contexts are they relevant?

Panama operates a straightforward and favourable territorial tax regime. In simple terms, this means Panamanian citizens and residents are only subject to Panama tax on Panama source income. Income generated outside of Panama is not subject to Panama tax.

Panama offers various residency/visa programmes to attract international companies and HNW individuals such as the Friendly Nations Visa, Retiree visa, Self-economic solvency visa and the Reforestation investor visa (see below).

A visa does not automatically guarantee tax residence in Panama, as this is linked to the number of days spent in Panama and/or the generation of Panama income that is subject to Panama tax. A passport may be applied for once a person has spent at least five years in Panama.

QUESTION 2 — SUCCESSION

What is the basis of the inheritance tax in your jurisdiction and the main characteristics of the succession regime?

There is no inheritance tax in Panama. Individuals may also make donations to family members at any time during their lifetime free of Panama tax.

HNW individuals in Panama will tend to deal with their estates by way of holding assets in a Panama foundation. Using a foundation helps to circumvent a lengthy probate process involving the courts.

Should a foundation not be used then it is possible to deal with all assets by way of a Panama will. There is no restriction on how assets shall be dealt with under the will as there are no forced heirship provisions in Panama.

If a person dies intestate, then the matter shall be dealt with by the civil courts. This can be a lengthy process, and, like other countries, intestacy rules shall apply dependent on who dies, and which family members survive.

QUESTION 3 — TRUSTS

Are trusts recognised in your jurisdiction and what alternative structures are available?

Yes, trusts are recognized in the jurisdiction of Panama. It is little known internationally, but Panama enacted its first trust law in 1925. This has been superseded by Law 1 of 1984, as amended by Law 21 of 2017.

The provision of trustee services by Panama companies is regulated in Panama and a licence must be obtained from the Superintendency of Banks.

The use of trusts is not as popular in Panama for succession purposes as in other countries, since the tendency is to use a Panama foundation or will. Panama trusts are mainly used as part of local transactions.

A Panama foundation remains popular as they are private and confidential and can be self-administered by the HNW individual and his/her family – perhaps more akin to a private trust company arrangement in the trust world.

QUESTION 4 — IMMIGRATION

What immigration options are available to HNW's wishing to relocate to your jurisdiction?

There are various visa options in Panama but the most popular are:

Friendly Nations Visa – this is generally regarded as very straightforward. The nationals of more than 50 countries are eligible for this visa based on the understanding that such countries maintain friendly economic, professional and investment relations with Panama. Examples include: Australia, Brazil, Canada, France, Germany, Ireland, Spain, South Africa, the United Kingdom and the US. This visa has several requirements that must be satisfied, with arguably the most important being the need to establish either a professional or economic relationship in Panama.

Self-economic solvency visa – allows HNWIs to obtain permanent residency by investing in a property which has a value of US$300,000 or depositing this amount in a governmental bank on a fixed term deposit. This process is also relatively straightforward.

Retiree/pensioner visa – this visa applies to individuals who receive income from a retirement scheme or pension from a foreign government, international organisation or private company that wish to move to Panama to retire.

Reforestation investor visa – an individual may seek permanent residency as a 'forest' investor. The individual may invest personally or through a corporation whose main activities shall be reforestation, forest plantation activities or other activities authorized by the National Environmental Authority in Panama. There must be a minimum investment of US$80,000 and in an area not less than five hectares.

> *"Panama offers various residency/visa programmes to attract international companies and HNW individuals such as the Friendly Nations Visa, Retiree visa, Self-economic solvency visa and the Reforestation investor visa."*

Top Tips – What are the most common tax relief options available in Panama?

Simply, for Panama residents there are the three 'no's', which, in the order of general life-cycle planning, are:

- No tax on overseas income and gains (the territorial tax regime);
- No donations tax between family members; and
- No inheritance tax.

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Home Sweet Home: Residency options and succession planning for high net worth individuals

In the following pages you will find a wealth of information by IR Global's Private Client specialists who build a picture of what wealthy individuals should be looking for when addressing issues such as succession planning, trusts and overseas residency.

Read the full publication via
www.irglobal.com/news/e-publications

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