TRUSTS AND PRIVATE WEALTH MANAGEMENT: HOW TO SAFEGUARD YOUR LEGACY

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Introduction

1. Singapore has established itself as a leading wealth management centre, both in Asia and the world. Singapore was ranked as the 2nd most competitive wealth management centre in the world by the Deloitte International Wealth Management Centre Rankings in 2024. Singapore is attractive to high net-worth individuals because of its sound financial regulation, political stability, wealth management talent, favourable laws governing trust companies and taxation of foreign earned income, lack of estate duty and track record for innovation. These factors make Singapore an ideal location for private wealth management and estate planning, including the use of trusts.

2. Trusts have been used for many years for wealth management, even in the days of colonial Singapore. Before Singapore repealed its estate duty regime in 2008, trusts were a popular method for high net-worth individuals to mitigate the effects of estate duty. Today, trusts can be used for multi-generational estate planning and wealth transfer. In large family-owned businesses, a prevalent issue is the inability of descendants to continue effectively managing and/or controlling family businesses over multiple generations, and this usually results in once successful family business entities being sold to third parties or wound up, resulting in an eventual loss of family wealth or family control over the family business.

3. In this article, we will explain the reasons why business families face challenges with preserving intergenerational private wealth, analyse two case studies and then go on to explain how trusts can be used for multi-generational wealth transfer.

The Need to Preserve Intergenerational Private Wealth

4. Although the wealth management needs of high net-worth individuals are diverse, a prevalent issue is keeping assets intact over multiple generations. High net-worth individuals may wish to use their assets to provide for the needs of their family members and descendants over time. Some of the challenges that high net-worth individuals face in preserving intergenerational private wealth include:

   a. Struggle for control over assets. As seen in many wealthy families in Singapore, there may be a struggle between the descendants of high net-worth individuals for control over management of the assets once the first generation passes away. As members of each subsequent generation aim to gain control and divide the assets among themselves or their own descendants, family wealth may be diminished over time and/or control over family business assets may be divested to third parties. There is also a need to protect assets from creditor claims or claims from divorces against individual family members (whether at the first generation or subsequent generations).

b. Mismanagement of assets. High net-worth individuals usually hold a mix of substantial and complex assets, including real property, operating companies and passive investments. Family members and descendants of high net-worth individuals may not have the expertise to skilfully manage these assets, especially if the assets continue to grow over time. Sometimes it is best for an external investment professional to manage the assets of the family to avoid family feuds or emotional toll, such as when losses mount in a financial crisis. Thus, sometimes it may be beneficial for business families to appoint a third-party with expertise in investment and asset management to manage their assets. This would maximise returns, encourage economies of scale and promote good corporate governance.

c. Forced heirship laws. The distribution of the estates of high net-worth individuals in certain jurisdictions may be subject to restrictions under inheritance laws. For example, inheritance laws may limit the proportion of a high net-worth individual's estate that may be distributed by way of a will. Such rules are known in trust legal practice as "forced heirship laws". Such high net-worth individuals may wish to exercise more control over the distribution of their assets, by preventing their assets from forming part of their estates that are subject to forced heirship laws.

d. Taxation. High net-worth individuals may own assets and have family members located around the world. High net-worth individuals and their family members may be subject to complex taxation laws on income earned from these assets, including double taxation. Situating control of their assets in a trust, which is in turn located in a jurisdiction with favourable tax treatment for trusts, would be useful for such beneficiaries to lower their taxation burden.

Case Study: Yeo Hiap Seng Limited

5. The case study of Yeo Hiap Seng Limited highlights the challenge faced by high net-worth individuals in preserving private wealth over multiple generations.

6. Yeo Hiap Seng Limited was one of the largest family-owned food and beverage businesses in Singapore. Yeo Keng Lian set up the first Yeo Hiap Seng shop in China in 1901, selling soya sauce. Yeo Keng Lian's son, Yeo Thian In, later took over and brought the business to Singapore in 1938. Over the years, the business expanded to manufacture a range of food and beverage products as more family members joined the business. In 1956, ownership of the business was divided among five of Yeo Keng Lian's sons and two of his grandsons. Yeo Hiap Seng Limited was publicly listed in Singapore in 1969, with the Yeo family retaining control over a 49% stake in the company through Yeo Hiap Seng Holdings. By the 1980s,

Yeo Hiap Seng Limited had become the second-largest drinks manufacturer in Singapore and Malaysia.

7. In the 1990s, a number of Yeo family members came into dispute with Alan Yeo, the then chairman and chief executive officer of Yeo Hiap Seng Holdings. In 1993, a faction of family members sought to oust Alan Yeo. Decisions were made by majority vote and key corporate actions were blocked by the dissenting faction. This included a bid to acquire a significant stake in Yeo Hiap Seng Limited. Alan Yeo eventually went to court in 1994 to dissolve Yeo Hiap Seng Holdings, and the Yeo family's stake in Yeo Hiap Seng Limited was split up. This led to a takeover battle, with Singapore property developer Ng Teng Fong finally acquiring majority control over Yeo Hiap Seng Limited. Since 2000, there has been no member of the Yeo family remaining in a senior management role at Yeo Hiap Seng Limited. This case highlights the importance of implementing a proper succession plan, such as using a trust structure to preserve control over family businesses.

8. Many first-generation business owners may think that succession planning via holding all their shares in operating companies and assets under a holding company, and transferring shares in such a holding company to their children via a will is the easiest way to achieve wealth transfer. From this case study, we see that merely transferring shares of a successful business to your children may ensure that the business is held via the family at the second generation, but it is unclear whether the second or subsequent generations will enter into conflict and divest ownership of the business.

9. If the first-generation business owner believes that what such owner is building should stay in the family across multiple generations, the shares of the holding company could be held via a trust structure. Trust structures can help maintain control by designating trustees who will manage the business and assets for future generations, thus preventing conflict and ensuring business continuity. Provision for each branch of the family (for example, each child of the founder and their family) can be made via the creation of sub-trust structures, which ensures that each branch of the family will be able to enjoy the fruits of the labour of the first-generation founder.

Case Study: Shaik Sallim Talib

10. The case study of Shaik Sallim Talib highlights the benefit of using a trust structure to preserve private wealth over multiple generations.

11. Shaik Sallim Talib was a wealthy Arab trader who lived in Singapore in the early 1900s. His assets included a large portfolio of properties. Shaik Sallim Talib's assets were settled into a trust which is currently managed by the trust company British and Malayan Trustees for the benefit of his descendants. Following his death in 1937, income from the trust continues to be distributed to Shaik Sallim Talib's descendants located around the world.

12. In 2019, a dispute arose among Shaik Sallim Talib's descendants regarding the interpretation of certain terms of the trust. Some descendants claimed that due to a misinterpretation of the terms of the trust, income from the trust had been wrongly distributed among the descendants. The High Court of Singapore ruled that there had been an erroneous distribution of funds by British and Malayan Trustees to certain beneficiaries between 2001

and 2019. A further dispute arose in 2024 regarding the recoupment of overpayments made between 2001 to 2014, which amounted to $1.46 million. The High Court of Singapore ruled that British and Malayan Trustees could recoup the overpayment by adjusting future payments to the overpaid beneficiaries.

13. As illustrated in the case of Shaik Sallim Talib, a trust structure is a useful tool to keep a high net-worth individual's wealth and assets intact over multiple generations, even in the face of disputes among descendants. Shaik Sallim Taib's trust has successfully preserved his assets for the benefit of his descendants for over 80 years. In addition, Singapore has a sizeable body of case law governing trust law and this provides greater certainty to the administration of trusts in Singapore.

Trusts as a Tool to Preserve Intergenerational Private Wealth

14. Trusts are a useful tool for high net-worth individuals to preserve intergenerational private wealth. Trusts may be used in conjunction with a family constitution to guide a high net-worth individual's family members and descendants in managing their assets.

15. Trusts address some of the key challenges faced by high net-worth individuals in preserving intergenerational private wealth, including:

a. Management of assets by a third-party. By using a trust structure, high net-worth individuals can entrust the holding and management of their assets to a third-party trustee for the benefit of future generations of descendants. This would prevent high net-worth individuals' descendants from struggling for control over the assets and disputes regarding the management of the assets. The assets would also have some degree of protection against creditor claims and claims from divorces against individual family members.

b. Management of assets by a skilled trustee. High net-worth individuals can engage professional trustees with expertise in financial planning, investment management and portfolio trading activities to manage their assets. This is especially beneficial where the assets held are complex and substantial, or distributed around the world. In such cases, the trustees can work with the family office or fund manager to manage the assets.

c. Avoiding forced heirship laws. By settling their assets in a trust, high net-worth individuals may be able to prevent the assets from forming part of their estate which would be subject to the principles of forced heirship laws. For example, in the case of *Shafeeg bin Salim Talbin v Fatimah bte Abud bin Talib* [2010] 2 SLR 1123, the Singapore Court of Appeal held that if a Muslim settles his or her assets into a trust during their lifetime, such assets will not form part of his or her estate which would be subject to Islamic inheritance law in Singapore.

d. Tax advantages. By setting up a trust in a country with favourable tax policies in relation to the management of trust assets, high net-worth individuals may lower the taxation burden on their assets. This is especially useful where a high net-worth individual's assets and family members are located around the world. For example, Singapore has favourable trust laws, making it an attractive location for setting up a trust. Singapore offers various tax incentives for trusts and assets held by such trusts. There is no estate duty and capital gains tax in Singapore. Trusts in Singapore may be eligible for exemptions on foreign-sourced income. Singapore has also signed double taxation agreements with around 100 jurisdictions, which reduces or eliminates double taxation on income distributable to beneficiaries.

16. High net-worth individuals may consider implementing a family constitution in conjunction with a trust structure. A family constitution sets out the family's values, strategic objectives, and decision-making and conflict resolution framework. It addresses the management of the family business, family office or family philanthropic endeavours. For example, a family constitution may provide for a family council to be convened to make decisions. Although a family constitution is usually non-binding, it may be incorporated into the trust deed, or shareholders' agreements for the management of family companies.

17. There are many possible forms which a trust structure for intergenerational private wealth management may take. For example, high net-worth individuals may consider setting up a trust in Singapore, under which separate holding companies are incorporated to manage the (i) operating businesses, (ii) investment portfolio, whereby real estate investments may be managed under a separate holding company, and (iii) a charity which is registered as an institution of public character in Singapore. This branch structure enables each segment of the high net-worth individual's assets to be separately managed for greater efficiency. When the operating business or investment portfolio branches of the trust structure make excess profits, the profits may be donated to the charity branch to obtain tax deductions in Singapore. As mentioned above, high net-worth individuals may also provide for different branches of the family via the creation of sub-trust structures.

Conclusion

18. In this article, we have described the challenges faced by high net-worth individuals who wish to preserve intergenerational private wealth to provide for the needs of their future descendants. Intergenerational private wealth may be diminished over time due to factors beyond a high net-worth individual's control, including a struggle for control over the family assets, mismanagement of the family assets, forced heirship laws or a high taxation burden.

19. We have also analysed two case studies. The case of Yeo Hiap Seng Limited highlights the challenges faced by high net-worth individuals in preserving private wealth over multiple generations. In this case, a business owner divided the shares of a successful business among his children and grandchildren. Due to conflict between the subsequent generations, ownership of the business was subsequently divested. In contrast, the case of Shaik Sallim Talib highlights the benefit of using a trust structure to preserve private wealth over multiple generations. By using a trust structure, the high net-worth individual's wealth and assets were kept intact for over 80 years, even in the face of disputes among his descendants.

20. Finally, we have explained how trusts are a useful tool for high net-worth individuals to preserve intergenerational private wealth, particularly when they are used in conjunction with a family constitution to guide a high net-worth individual's descendants in managing the family assets. By settling assets into a favourable trust structure, a high net-worth individual can ensure that his or her assets are managed by a skilled third-party, avoid forced heirship

laws and gain tax advantages. Singapore is an attractive location for high net-worth individuals to set up such a trust, due to its sound financial regulation, political stability, wealth management talent, favourable laws governing trust companies and taxation, track record for innovation, and strong reputation as a wealth management hub.

21. Lee & Lee's Private Wealth practice caters to Ultra High Net Worth individuals, families and family offices and provides them with personalised assistance in areas such as asset management and protection, tax incentive applications for family offices, wealth preservation, philanthropy, estate administration and planning strategies, the administration of trusts and the establishing of single and multi-family offices. For more information, please contact the author of this article.

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