



UAE PRIVATE WEALTH SERIES (III) LEGACY PLANNING

1. What is legacy planning?

Legacy planning is the financial and governance strategy that prepares you to bequeath your wealth and life achievements to the generations to come.

Beyond the basic elements of estate planning, legacy planning aims at providing and implementing a roadmap in line with the patriarch's vision according to which (i) a legacy is established; (ii) assets will be managed and protected; and (iii) passed on to future generations.

Therefore, legacy planning is key for individuals with businesses or other assets that require professional management and/or preservation.

Subject to personal priorities the main objectives of legacy planning are:

- Asset protection
- Asset consolidation
- Wealth management
- Family Unity
- Business continuity
- Governance
- Tax efficiency

2. Why is it important to implement a legacy planning strategy?

Planning to leave your legacy to your heirs can be complex and difficult to face. There is no easy way to say it – anticipating one's death is an uncomfortable topic.

In order to **leave a financial legacy** for the next generation(s) it is important to first **ensure financial security** to amass such legacy. Maintaining such financial security on a long-term basis can be a real challenge - especially for globalized families as the risks are numerous and sometimes hard to predict.

With a proper legacy planning strategy, the following risks may be addressed:

- Political Risk
- Geographical Risk
- Exchange Control
- Tax (domestic/foreign investment)
- Governance
- Death/Incapacity of principal
- Creditor Attacks
- Lack of eligibility of next generation
- Matrimonial Attacks
- Family Disputes
- Freezing of Assets

3. What are the tools?

There are numerous legacy planning tools available, chief among which are:

- Foundations
- Trusts
- Single Family Offices
- Default Succession Companies
- Wills
- Funds

The tools need to be chosen and implemented carefully in order to achieve the objectives. To do so, it is paramount to evaluate the priorities, consider the types and location of assets/business as well as the circumstances of the principal and the beneficiaries. As many life events and market or regulatory factors may change the requirements over the course of time, the flexibility of such tools is key. See chart on the next page for more information.

Who we are

We are a multi-services platform catering to a broad spectrum of clients – from individual entrepreneurs and local SMEs to wealthy international families, to established blue-chip companies and multinationals. Our one-stop-shop offering is unique in the Middle East: a holistic and cross-disciplinary combination of a market-leading corporate services firm, a law firm's specialist expertise and a regulatory & compliance services practice, all through one single platform.

We have broad experience advising successful individuals and international families on a broad range of legacy planning and wealth structuring issues, including structuring of operational and non-operational assets. We are regularly assisting clients on all aspects of their legacy planning – e.g. defining the family's needs and vision; identifying the main concerns, fine-tuning and implementing governance aspects and management strategies; selecting, incorporating and providing ongoing support to the appropriate structure.

Headquartered in the UAE, we are an entrepreneurial firm for entrepreneurial clients.

Who will assist you



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	Trust	Foundation	Default Succession Company (DSC)	DIFC (WPR) in conjunction with Dubai/RAK co.
In a nutshell	<p>Obligation whereby the Settlor transfers legal title of assets to the Trustee to manage and distribute assets pursuant to the Trust Agreement for the benefit of one/ several Beneficiaries.</p> <p>No legal title of ownership (e.g. shares) issued to Settlor/ Beneficiaries.</p>	<p>Independent legal entity established by the Founder to manage and distribute assets pursuant to the Foundation's Charter and By-laws, for the benefit of one/several Beneficiaries.</p> <p>No legal title of ownership (e.g. shares) issued to Founder/ Beneficiaries.</p>	<p>Corporate entity with specific default succession clause in its Mem & Arts, enabling automatic transfer of legal title to ownership to a specified person upon a specified event.</p> <p>Legal title of ownership (e.g. shares) issued to Founder.</p>	<p>English language registry based within the Dubai International Financial Center (DIFC) allowing non-Muslims to register a will with regards to assets located in Dubai and Ras Al Khaimah and appoint an independent Executor/trustee.</p> <p>Legal title of ownership (e.g. shares) issued to Founder.</p>
Purpose	<ul style="list-style-type: none"> • Succession Planning • Legacy planning (continuity) • Asset protection • Tax Planning • Confidentiality • Flexibility 	<ul style="list-style-type: none"> • Succession Planning • Legacy planning (continuity) • Asset protection • Tax Planning • Confidentiality • Flexibility 	<ul style="list-style-type: none"> • Succession Planning • Legacy planning (continuity) • Asset protection • Flexibility 	<ul style="list-style-type: none"> • Succession Planning • Flexibility
Parties	<ul style="list-style-type: none"> • Settlor • Trustee • Beneficiary(ies) • Protector (optional) 	<ul style="list-style-type: none"> • Founder • Foundation Council • Beneficiary(ies) • Guardian (optional) • Registered Agent (often mandatory if no local office) 	<ul style="list-style-type: none"> • Shareholder(s) • Board of Directors • Specified Person 	<ul style="list-style-type: none"> • Testator • Beneficiary(ies) • Executor
In practice	<p>Trustee legally owns, holds and manages assets settled onto the Trust by Settlor, typically through an underlying (holding) company.</p> <p>Trustee is bound by the Trust Agreement. Settlor may convey his wishes by way of (non-binding) Letter of Wishes.</p>	<p>Foundation legally owns and holds in its own name assets settled onto Foundation by Founder or third party.</p> <p>Foundation is managed by Foundation Council pursuant to Charter and By-laws.</p>	<p>DSC owns and holds in its own name assets settled onto it by Founder. Founder owns shares into Samoa DSC. DSC is managed by Board of Directors.</p> <p>Upon the occurrence of a specified event (e.g. death of Founder), designated membership interest (i.e. shares of Samoa DSC) vests to the specified person.</p>	<p>Dubai/Rak co owns and holds in its own name assets settled onto it by Founder. Founder owns shares into Dubai/Rak co. Founder registers a DIFC WPR will.</p> <p>Upon death of Founder (Testator) a probate procedure is opened before DIFC Courts and Executor is responsible for distribution of assets pursuant to the will.</p>
Residual control / monitoring	<p>Settlor has limited control over assets. Some of Trustee's powers may be delegated to 3rd parties incl. Settlor (e.g. investment powers).</p> <p>Protector may be appointed to monitor Trustee (prior consent) and granted reserved powers (e.g. distribution of funds, election of Beneficiaries, Trustee, amend Trust Deed).</p>	<p>Founder can retain flexible powers, e.g. can be a Council member. Some of Council's powers may be delegated to 3rd parties incl. Founder (e.g. investment powers).</p> <p>Guardian may be appointed to monitor Council (prior consent). Founder (or a Guardian) may be granted reserved powers (e.g. amend/voke by-laws, revoke foundation).</p>	<p>Founder (as shareholder) retains full control and monitoring powers of DSC during lifetime.</p>	<p>Testator may amend the will at discretion during lifetime.</p>



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Management / Executive Powers	Trustee, an individual or a company, acts in the interest of Beneficiaries according to Trust Agreement and Letter of Wishes. A Private Trust Company may be established to manage the Trust.	Foundation Council acts in the interests of Founder and Beneficiaries, in accordance with the Foundation Charter . Foundation Council may be composed of Founder/ Beneficiaries.	DSC managed by a Governing Director designated in Mem & Arts. Founder can determine the appropriate board structure after his demise.	Executor (nominated by Testator) can be a family member, a friend or a legal representative. Co-Executors can may be appointed.
Distinct legal entity	No; cannot hold assets or enter into contracts in its own name	Yes ; can hold assets and enter into contracts in its own name	Yes ; can hold assets and enter into contracts in its own name	N/A
Use for commercial purposes	Yes	No, but may hold shares in commercial companies	Yes	N/A
Creation (during lifetime / upon death)	Both	Both	Only during lifetime	Only during lifetime
Registration	No ¹	Yes ²	Yes, with Samoa's commercial register	Yes, with DIFC WPR
Minimum share capital requirements	No	Yes (amount specific to each jurisdiction)	No	N/A
Residency requirement	<ul style="list-style-type: none"> • Settlor: No • Trustee: No¹ 	<ul style="list-style-type: none"> • Founder: No • Foundation Council: No¹ 	<ul style="list-style-type: none"> • Shareholder: No • Director: Mandatory Samoa Registered agent 	<ul style="list-style-type: none"> • Testator: No • Executor: No
Separation of legal and beneficial ownership	Yes. Trustee is legal owner of assets while Beneficiaries are beneficial owners	No. Foundation is the legal owner of the assets. Beneficiaries benefit from the Foundation but do not hold ownership rights in the assets	No	No
Beneficiaries	Beneficiaries can be individuals, companies or charities and may include Settlor. Distributions made by Trustees in accordance with Trust Deed, considering (but not being bound by) letter(s) of wishes by Settlor.	Beneficiaries may be individuals, companies or charities. Distributions made by Foundation in accordance with Charter & By-Laws, considering (but not being bound by) letter(s) of wishes by Settlor.	Beneficiaries may be individuals, companies, trusts or charities.	Beneficiaries may be individuals, companies, trusts or charities.
Beneficiaries rights to receive assets	Potentially – subject to discretionary powers of Trustee	No	No	No
Beneficiaries rights to information	Potentially – subject to Trust agreement	No – unless expressly mentioned	No	No
Beneficiaries rights to wind up and distribute assets	Potentially – subject to Trust Agreement	No	No	N/A

1. In ADGM/DIFC; jurisdiction specific.

2. In ADGM/DIFC; few exceptions, subject to the jurisdiction/purpose.



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		Trust	Foundation	Default Succession Company (DSC)	DIFC (WPR) in conjunction with Dubai/RAK co.
Protection against	Forced Heirship Rules	Yes ³	Yes (but depends on jurisdiction)	Yes	No, Subject to challenge
	Sharia	Yes ³	Yes ³	Yes	Yes but N/A for Muslims
Protection from creditor claims		Yes, except in cases of fraudulent transfers	Yes, except in cases of fraudulent transfers	No	No
Protection for Beneficiaries		Trustee must act in accordance with trust law and precedent and protector may be appointed to monitor Trustee's actions.	Councilors do not owe direct fiduciary duty to Beneficiaries but must act in accordance with Charter and by-laws*.	The membership interest is incorporated in Mem & Arts.	Court must ratify distribution of assets according to suggestion of executor, which must be in line with the will.
Could be considered as a Sham		Yes, sometimes	No	Yes, sometimes	No
Piercing the corporate veil		N/A	Yes - sometimes	Yes - sometimes	N/A
Publicity of information		Not public	Limited. Charter (with generic information) is public ⁴	Limited. Generic information available on the registrar portal	Not public
Revocability		May be revocable or irrevocable	May be revoked/discontinued	May be discontinued Holder of a membership interest can nominate/remove a specific person	May be revoked
Time period		Depends on jurisdiction	None	None	Until death of Testator
Portability		Can be transferred to another jurisdiction	Can be transferred to another jurisdiction	Can be transferred to another jurisdiction but default succession clause will then become unenforceable	Not portable
Flexibility		High - in terms of way the trust operates over time	Somewhat limited - due to Charter and By-laws	Restricted - due to Mem & Arts and definition of "specific event"	Highly - Testator may modify/amend the will anytime
Body of Law and Precedent		Case law and precedent developed over many centuries by the Common Law.	Case law and precedent (in Common Law jurisdictions). Statutory law, less precedent (in Civil Law jurisdictions).	Section 228B of the Samoa International Companies Act 1987 ("the ICA"), little precedent.	DIFC Laws and Regulations apply to DIFC WPR.
Taxation		Tax issues to be considered on creation depending on jurisdiction, often governed by established tax laws.	Tax issues to be considered on creation depending on jurisdiction; not always governed by established tax laws.	Exemption from all Samoa income taxes, stamp duties, withholding taxes, and any other direct or indirect tax, duty or levy.	N/A

* Guardian may be appointed to monitor councilor's actions.

3. If properly formed and managed.

4. Exceptions apply.