Craft a legacy for future generations

HSBC Life

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Foreword

The good life plays out in your mind like scenes from a movie: enjoying an overseas holiday surrounded by your loved ones and the lush greenery of summer; basking in the warmth of a family get-together as the cool autumn gives way to the chill of winter. As your children start to build families of their own, your sense of fulfillment is heightened by a special pride. Your carefully planned legacy will live on in the hearts of your grandchildren and beyond.

Many people have the impression that legacy planning is necessary only for those in their declining years. The pandemic, however, is a stark reminder of just how unpredictable the future can be. That's why more and more people are starting their legacy planning earlier to give their loved ones the confidence to move forward.

Research done by the Society of Trust and Estate Practitioners (Hong Kong) shows that, whenever there's a large-scale crisis, such as the SARS outbreak in Hong Kong in 2003, the number of people making a will jumps by approximately 24%[1]. And when the crisis recedes, that number drops quickly. This time around, since we've been living with the COVID-19 pandemic for more than two years, the interest in estate planning has shown no sign of waning.

An estate is made up of assets, and recent years have seen the emergence of new types of assets as a result of technological developments. Today, digital assets range from online account information, electronic devices, computer files to virtual currencies and more. Managing this bewildering variety of new assets has become an important skill in the digital age.

On the other hand, many Hong Kong people are immigrating to the UK, Australia, Canada, Taiwan, etc. The different tax laws in these countries/regions give rise to financial complexities and issues that deserve special attention.

It's many people's wish to pass on what they treasure to the ones they love. Keeping your promise to protect your family starts with wealth management planning. In this booklet, we cover legacy planning options, things to keep in mind when preparing your estate, overseas tax systems, case studies and more to provide you with a handy reference guide to planning for your family's future.

Note: This booklet is for general reference only. Different individual circumstances may entail changes or exceptions to the information contained herein. HSBC Life (International) does not provide any legal or tax advice. You should not make any decision based solely on the contents herein. If necessary, please seek independent professional advice.

1. The Malaysian Insight: Life feels all the more precious under the pandemic, legacy planning consultations on the rise (Yau Yuk-san, 16 March 2021)

The concept of legacy planning

We all go through the same immutable stages of life. With a good legacy plan in place, we can rest assured that our families will be well-protected in the future. In addition to tangible wealth such as money, property, jewellery, businesses, digital assets, etc, an estate can also include intangible wealth such as inheritable skills, intellectual property, the family's values, etc.

Don't wait to decide what to leave behind

Legacy planning is the use of different financial tools to establish a process for managing accumulated assets, so that, whatever happens in the future, your assets will be transferred to your heirs in accordance with your wishes. In this day and age, legacy planning is no longer about allocating your assets just before your passing, but a wealth management priority while you are in your prime.

Preserving enough assets through wealth management to fulfill your wishes

Achieving estate tax efficiency

Ensuring the transfer of your assets will be managed and executed by trusted parties during the inheritance process

Setting a timetable for the transfer of your assets to your heirs

Is legacy planning only for the rich?

There is a common misperception that only wealthy people need estate planning. In fact, a good succession plan should also be a priority for individuals who:

- Want to ensure a smooth transfer of assets to their heirs in accordance with their wishes
- Have more complicated family structures
- Are required to pay estate tax
- Have limited assets but whose children are not old enough to manage the inheritance independently
- Have both local and overseas assets

Plan early to reduce uncertainty under the pandemic

The pandemic has dealt a blow to the world economy and driven home the importance of managing one's wealth to prepare for what tomorrow might bring. Since 2019, COVID-19 has taken a heavy toll in human lives and wealth, making the future appear even less predictable. According to Cap 73 of the laws of Hong Kong, the Intestates' Estates Ordinance, if you pass away without having made a will, your assets will be assigned to your spouse, children, parents, biological siblings and their descendants, in that order[1]. In addition to making a will, legacy planning involves many other factors that need to be considered.

1 Marital status affects allocation of assets

Just because you have prepared a will is no guarantee against further complications. Under Hong Kong law, if a will is made by a person who subsequently marries or remarries, it shall be automatically voided in order to protect the interests of new family members[2], unless otherwise stated. Getting married is an important milestone that should be accompanied by a review of your will or succession plan. Since the complexities of modern relationships are making divorce more common, early planning can help prevent the emergence of thorny issues in the future. Generally speaking, you should revisit your wealth transfer plan whenever your personal relationship enters a new stage. In Hong Kong, live-in partners do not enjoy the same legal status as spouses. That makes it all the more important to plan ahead. If you pass away without having prepared a will, your other half might be denied a share of your assets[1].

2 Different jurisdictions, different estate taxes

Moving abroad has major implications for one's wealth management strategy. The inheritance tax rates in some countries/regions can be formidably high. There is the well-documented case of an aristocrat who, after inheriting his father's peerage and estate, was left with no choice but to sell off his family's lands in order to pay a very hefty inheritance tax. To make sure your heirs will have full control over the wealth you want to pass on to them, get to know the tax systems of different countries/regions and ensure the best succession plan is implemented at the right time for you. The earlier you start putting together your legacy plan, the better your chances of optimising your tax position.

If you want to maintain assets in your country/region of origin after immigrating, an important factor to consider is whether you'd need to pay tax in both jurisdictions. Take Taiwan and the UK as examples:

Taiwan	**After becoming a tax-paying resident in Taiwan:** If annual overseas income ⊕ other basic income exceed TWD 6.7 million You may also have to pay tax in Taiwan	**UK**	**You may have to pay these taxes based on the value of the property you've sold in Hong Kong:** Additional stamp duty in Hong Kong ⊕ capital gains tax in the UK[3]
Each individual's tax requirements are different and the tax issues involved can be complicated. Please seek advice from professionals and tax advisors.			

3 Avoiding inheritance disputes

Family disputes over who gets what are not limited to the plots of TV dramas or news about the rich and famous. Ordinary families can also be embroiled in these conflicts. Various types of inheritance challenges are supportable on different legal grounds[4]. Generally, disputes are resolved through negotiation, mediation or litigation. The process, however, almost always creates serious family discord, drags out the inheritance process and incurs substantial legal fees, with neither side guaranteed a favourable ruling. An inheritance plan tailored to your needs can reduce the risk of such friction. Purchasing a life insurance policy and designating a beneficiary, for instance, is a useful option for paving the way to a smooth succession.

4 Improving your successors' wealth management habits

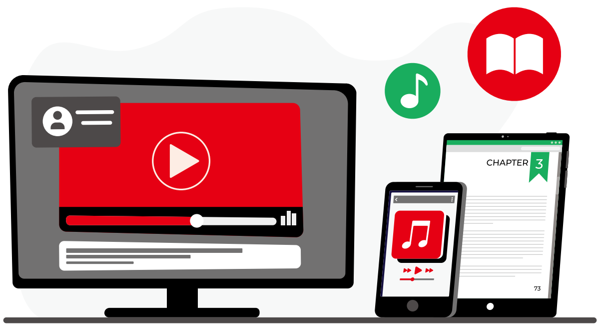
There is no shortage of real-life stories of wealthy heirs squandering their inheritances or assets being sold off by unscrupulous parties. That's probably why someone once took the thoughtful step of stipulating in his legacy plan that his children could only access his estate when they had reached a certain age. Everyone has their own concerns and considerations; the earlier you start planning, the better your chances of turning your plan into reality. One of the solutions is life insurance. Through some life insurance plans, arrangements can be made to allow the beneficiary to receive the benefit payout by stage to encourage financial discipline.

1. The law of Hong Kong: Intestates' Estates Ordinance
2. Community legal information website, the Law and Technology Centre of The University of Hong Kong: Things to pay attention to at the start of the probate process (25 February 2020)
3. Website of Her Majesty's Revenue and Customs: Capital Gains Tax
4. Website of Yip, Tse & Tang, Solicitors: Inheritance disputes under litigation

When assets go digital

What are digital assets?

The digital age has been referred to by some as the third industrial revolution. Even though the two previous industrial revolutions have left a heritage of technological innovation, personal wills are still paper documents. Traditionally, wealth has been represented by such tangible assets as bank deposits, securities, antiques, etc. The digital age, however, has given rise to large quantities of digital assets. For instance, the passwords for online investment accounts involve the usage rights for valuable assets, virtual currency holdings are potentially worth a fortune, and popular websites and webpages can have significant advertising value, while some international video-sharing channels can be worth up to HKD16 million[1,2]. Many domain names have also appreciated in value; prices start at several thousand Hong Kong dollars and top out at about HKD380 million[1,3]. We live in an age where digital assets are a part of life. Anyone can have multiple email addresses, forum usernames and social media accounts. While their value may be commemorative or commercial, anything personal can be a digital asset.



Smooth transfer of assets a top priority

Even though they are the subject of some controversy, virtual currencies have become major digital assets. CoinGecko estimates that the combined value of all the virtual currencies now in circulation in the world already exceeds HKD18 trillion. Bitcoin has a 39% share of the total, while ETH makes up 20%[4]. The transfer of these assets, however, involves a number of technicalities, such as how secret keys are obtained and presented, that complicate the legacy planning process. The death of Mircea Popescu, who owned a bitcoin fortune with an estimated value of HKD7.7 billion, has sparked much media speculation about succession[5].

1. Data based on HSBC exchange rates (referencing banknotes bank sell price on 21 December 2021)
2. Trustiu Digital Assets Market data
3. GoDaddy: The top 25 most expensive domain names (Joe Styler, 18 June 2019)
4. CoinGecko: Cryptocurrency Prices by Market Cap
5. Newtalk news: Drowning of billionaire focuses media attention on estate of 1 million bitcoins (29 June 2021)

Inheritance laws can't catch up with technological development

The emergence of e-everything has not gone unnoticed by international regulatory bodies. As early as 2003, the UNESCO Charter on the Preservation of Digital Heritage was proclaimed. It defined digital heritage as any texts, databases, audio and visual records, software, webpages, computer file formats, etc, that serve as repositories for intellectual, cultural and ethnic knowledge of lasting value. As such, these resources should be safeguarded for the benefit of future generations[6].

A person's digital assets can also be records of a family's accumulated achievements and wisdom, and should be preserved for posterity. Typically, though, inheritance laws define estates as tangible assets. Since digital heritage is virtual rather than actual, many countries/regions are starting to revise existing legislations or pass new ones pertaining to the transfer of digital assets, and more solutions will likely be proposed in the years to come. This trend highlights the importance of undertaking estate planning early to prevent future problems

While some countries/regions are introducing legislations regarding digital assets, others still lack the necessary regulations and statutory protections, a situation that waits to be remedied. Some people see plenty of potential in digital assets, because, once uploaded, information will be permanent and "unforgettable". That makes it the ideal way to record assets.

US laws

Several years ago, the State of Delaware in the US took the lead in passing the Fiduciary Access to Digital Assets and Digital Accounts Act, which confirms that a decedent's family, successor and will executors are entitled to the use of his/her digital assets and accounts[7]. Many other states have since followed suit, and the relevant legislations have become more wide-ranging as a result.

UK laws

In 2017, the Law Commission of the UK announced that statutory revisions would be undertaken in response to the development of digital technology. New laws would be enacted to allow the public to make appropriate arrangements regarding their digital assets. The key points of the announcement include: the making of wills and inheritance plans should match new developments in digital technology; digital assets would henceforth be considered within the context of the existing range of family relationships, including cohabitation[8].

Learn about wealth management and equip yourself with knowledge

6. UNESCO: Concept of Digital Heritage
7. Harvard Journal of Law & Technology: Delaware Act Broadens Access to Online Accounts of the Deceased (4 November 2014)
8. The 106th Annual Report of the National Economic Development Council of Taiwan: Research on digital assets and digital legacy legislation (14 March 2018)

Pre-immigration wealth planning – overseas inheritance tax at a glance

The quest for a different lifestyle has led some people to exchange the familiarity of Hong Kong for the possibilities of another country/region. Those considering immigration should keep in mind, though, that Hong Kong has a relatively simple tax system. In 2006, for example, the government abolished the inheritance tax. Legacy planning centres on two key concepts – "gifting" and "inheriting". If you hold a foreign passport or are a permanent resident in another country/region, be sure to familiarise yourself with the local estate tax and inheritance system. Some countries/regions that do not impose any inheritance tax may charge taxes in other forms; thus you should acquire a thorough understanding of the local tax system and seek advice from financial planners or tax advisors where appropriate. Whether you will be transferring assets or liabilities to your loved ones in the future depends on your planning today.

The information below on the standard tax rates and tax exemption amounts in selected countries/regions is provided for reference only. All information is subject to change from time to time. HSBC Life (International) Limited undertakes no obligation to update the contents of this booklet. Please refer to different government websites and publications for the most current information. The tax systems of different countries/regions vary. If you are in doubt, please talk to your tax consultant.

Inheritance tax in popular immigration destinations

Canada[1]

Tax: Capital gains tax as part of personal income tax

Canada does not currently impose any inheritance or estate tax. However, when a Canadian taxpayer passes away, there is a deemed disposition of assets and taxation of most capital gains. Further information can be found on the Canada Revenue Agency website.

US[2]

Tax: Gift tax and inheritance tax

Tax rate:

18% to 40%, depending on taxable amount

Lifetime unified tax credit

USD12,060,000

Gift tax is generally calculated in conjunction with estate tax. The lifetime tax-exempt amount is broadly known as the unified tax credit.

1. Website of Canada Revenue Agency
2. Website of the US Internal Revenue Service: Estate Tax (15 November 2021)

Taiwan[4]

1. Estate duty

Tax rate:

10%, 15% or 20%, depending on net estate value

Tax exemption:

TWD13,330,000

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2. Gift tax

Tax rate:

10%, 15% or 20%, depending on asset value

Tax exemption:

TWD2,440,000

Australia[5]

Tax: Capital gains tax

Australia does not have an inheritance tax. An heir, however, may have to pay a capital gains tax based on their tax residency status and the location of the relevant assets.

Tax rate

Capital gains are assessed as part of total taxable income, the tax rate for which, including supplementary taxes, can be as high as 47%. Please visit the Australian Taxation Office website for more information.

UK[3]

Tax: Inheritance tax

Tax rate:

40%

Tax exemption:

£325,000

3. Website of Her Majesty's Revenue and Customs: How Inheritance Tax works: thresholds, rules and allowances
4. Taxation Administration, Taiwan Ministry of Finance: Applicable tax exemptions in inheritance tax and gift tax cases, tax rates, exclusions and miscellaneous deductions from estate evaluations in 2022 (24 November 2021)
5. Website of Australian Taxation Office

Are gifts tax-exempt?

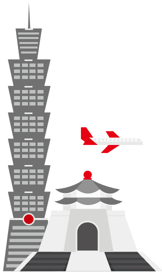
If you live in a country/region that levies a multitude of taxes, you may want to make full use of all your family members' tax allowances and deductions to optimise your payable estate tax. Some people may choose to transfer their estates to family and friends as gifts while they are alive. Please note, however, that countries/regions that have an inheritance tax may also levy a gift tax in response to this practice.

UK

Inheritance tax – the 7-year rule[1]

If a taxpayer's estate exceeds £325,000, they can transfer it to someone else as a gift 3-7 years before they pass away, and pay estate duty based on a tax rate that decreases by 8% each year, as the below table shows.

Number of years between gift and death	Inheritance tax rate
Within 3 years	40%
Within 3-4 years	32%
Within 4-5 years	24%
Within 5-6 years	16%
Within 6-7 years	8%
7 years or more	0%

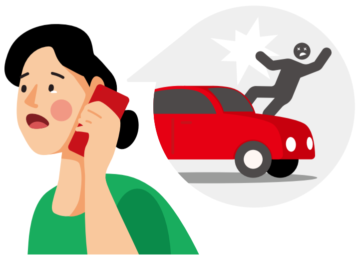


Taiwan

Assets gifted within two years of a testator's passing count as inheritance[2]

The gift tax in Taiwan provides an annual exemption of TWD2,440,000, but assets transferred as gifts by a taxpayer less than two years before they pass away are counted as part of their estate.

This means that, if you want to optimise your heir's inheritance tax liabilities through gifting before you pass away, you may need to do it little by little over many years. Another potential issue is that no one can accurately predict how long they will live; this tax optimisation strategy would be cut short if a giver suddenly passes away during the gifting process. At the same time, you may also need to consider the possible scenarios below.



The recipient of the gift passes away
It would have the effect of turning the gifted assets into an estate.

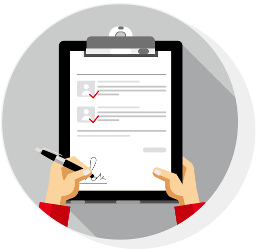
Irresponsible children
Gifting to children in advance is no guarantee that the gesture will be reciprocated; the children might ignore their filial responsibility and turn their backs on their parents in the future.

Effective legacy planning is a complex undertaking, especially for people who immigrate to a country/region with high tax rates. It's always a good idea to seek professional advice based on the types of assets you have, the beneficiary's circumstances, costs, etc. Use appropriate financial tools, such as insurance policies and trusts, to make wealth management plans and hedge against potential liabilities. Do keep in mind, though, that life insurance benefits may be taxable in some countries/regions (the UK[3], for example), so you may want to consider options such as transferring your policy to a loved one or setting up a trust.

1. Website of Her Majesty's Revenue and Customs: How Inheritance Tax works: thresholds, rules and allowances
2. Laws and Regulations Database of The Republic of China: Estate Tax and Gift Tax (20 January 2021)
3. Website of Her Majesty's Revenue and Customs: HS320 Gains on UK life insurance policies (2020) (6 April 2021)

Six common legacy planning tools

A well-executed plan starts with the right tools. The six legacy planning tools below all have different characteristics and are suited to different needs. A thorough understanding of their relative merits can help you distribute your assets effectively and in accordance with your wishes.



1
Life insurance

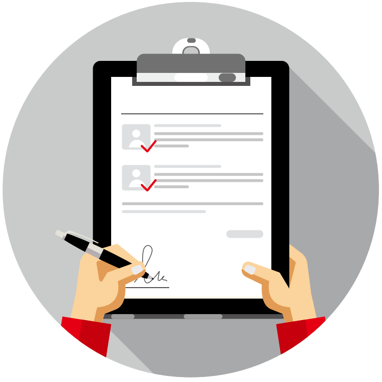
2
Will

3
Trust deed

4
Insurance trust

5
Gift

6
Enduring power of attorney



1. Life insurance

Definition

An individual can purchase life insurance policies for different life insureds and with different benefit amounts. If the life insured passes away, the beneficiary can receive a death benefit. The policyholder, however, must have an insurable interest in the life insured, that is, it is in the policyholder's interest to protect the life insured's physical wellbeing or life.

Key features

- Life insurance can be used to separate legacy and retirement assets, which helps solve the problems posed by assets that are difficult to divide in the wealth transfer process.
- Beneficiaries do not have to be members of the immediate family; and the death benefit can be paid in scheduled instalments to prevent reckless spending. Some insurance companies (such as HSBC Life) have made inheritance more flexible and inclusive by expanding the definition of beneficiary to include grandchildren, grandparents, stepchildren, partners living together or apart, same-sex partners, etc.
- Some insurance plans, including HSBC Paramount Global Life Insurance Plan, provide the option of a juvenile policy (for beneficiaries under the age of 18) to facilitate effective legacy planning.

Liquidity

In Hong Kong, the beneficiaries of life insurance policies can receive death benefits directly, without going through probate. Since, as a result, their assets do not need to be frozen, it's easier for them to maintain liquidity. Overseas beneficiaries, however, may be required to pay inheritance tax, depending on the applicable tax laws.

Value preservation

- Some life insurance plans on the market include a savings element. Typically, savings accumulate throughout the policy term. Dividends and bonuses may be paid under the right market conditions, further increasing a policy's value.
- Some life insurance plans also have a policy value management option that lets you further strengthen your financial position by locking in a portion of the policy value.

Cost

Depends on the insurance plan. Typically, there is no handling fee. For details on applicable fees and charges, please refer to the relevant product brochures and policy provisions.

Privacy

Gives the policyholder full control over their wealth transfer plan while maintaining privacy.

Processing time

The policyholder or beneficiary can submit claims as long as they have all the required documents. Life insurance claims typically take less time to process than wills, the norm for duly documented cases being several weeks*.

*Actual processing time varies according to individual circumstances and different insurance companies, subject to policy provisions. Insurance companies may require different documents to be submitted.

Risks

- According to Hong Kong's Bankruptcy Ordinance, an interim trustee or trustee can exercise full custodianship or control over the assets a bankrupt person is entitled to. That means if a person declares bankruptcy, the rights to their life insurance policy may be required to be transferred to a trustee[1].
- Policy surrender before the policy breaks even may result in financial losses or even penalties.

1. Cap. 6, Bankruptcy Ordinance of Hong Kong

2. Will

Definition

A will is a legal document that specifies how an estate is to be divided after the death of the testator. In Hong Kong, anyone who has reached the age of 18 can make a will[2] as a formal record of their wishes with regard to their assets.

Key features

As long as the testator is not incapacitated, they can revise the contents of their will at any time to change the allocation of their assets.

Liquidity

During probate, assets are required to be frozen and audited, which takes considerable time and may create financial difficulties for the inheritor if the assets are needed urgently[3].

Value preservation

Not applicable.

Cost

The legal fee varies from lawyer to lawyer. Please enquire with law firms directly. The probate process that takes place after the death of the testator will incur additional service fees.

Processing time

The executor of a will is required to apply for a grant of representation before an estate can be inherited. Generally, five to seven weeks may be needed[4].

Risks

- If the legality of a will is challenged, the inheritor may be required to prove the testator's intent and mental capacity when he/she drafted and signed the will.
- Even though an estate is normally distributed in accordance with the testator's wishes, the Inheritance (Provision for Family and Dependents) Ordinance (Cap. 481) can be invoked to authorise the court to order the allocation of part of the estate to specific family members or dependents.

2. Community legal information website, the Law and Technology Centre of The University of Hong Kong: How to make a will (25 February 2020)
3. Hong Kong Economic Journal: How to manage an estate (12 May 2021)
4. High Court: Probate Registry, Guide to Court Services (May 2020)

3. Trust deed

Definition

The trustor (the grantor) signs a trust deed to transfer assets such as properties and securities to a designated trustee. The trustee will then manage and make investments with the assets following conditions set out in the deed, and transfer the accrued earnings to the beneficiary[1].

Key features

- Entrusting an estate to a trustee or trust company.
- Can prevent the unauthorised sale of the assets by persons other than the trustee.
- The estate can be made available to the beneficiary in different stages to prevent overspending and provide a reasonable standard of living[2].

Liquidity

A trust deed can be valid for up to several decades. Once activated, terminating it or withdrawing cash is very difficult[2].

Value preservation

Some trustees will seek to preserve the value of the assets by making various investments. A trustor can specify the preferred areas of investment, such as stocks, bonds, real estate, etc.[2]

Cost

Depends on the assets and provisions. A simple trust deed costs at least HKD40,000 to HKD50,000 to set up. Transferring a property to the custodianship of a trust company can involve a stamp duty that is as high as 4.25% of the property's value[2].

Privacy

A trust deed is a private document and not subject to public scrutiny; family assets can be kept confidential[3].

Processing time

The time it takes to set up a trust depends on the complexity of the assets. Once established, a trust can begin operating immediately as a tool for allocating assets, and can remain operational both before and after the death of the trustor.

Risks

- Trust companies are characterised by limited transparency. Trustors should seek professional advice on services, fees and provisions.
- If the trust company closes down, the trust deed will be severely affected.

1. Hong Kong Institute of Financial Planners: Guide to wealth management (September 2020)
2. Hong Kong Institute of Financial Planners: Estate planning
3. Investor and Financial Education Council: Retirement financial planning (2017)

4. Insurance trust

Definition

An insurance trust combines the functions of an insurance policy and a trust. In this type of arrangement, a trust company is appointed as the beneficiary of a life insurance policy. As long as the trustor (grantor) is alive, the trust is in standby mode. Upon the trustor's death, the insurance trust receives the death benefit and is activated. The trustee executes, manages and distributes the assets in accordance with the trustor's wishes[4].

Key features

- Provides the flexibility to arrange how and when payments are made based on the beneficiary's different life stages and needs, a feature that is in contrast to the payment methods of regular insurance policies[4].
- Since an insurance trust is not subject to probate, assets don't have to be frozen, which is useful for ensuring timely financial support for the inheritor[4].
- If the successor is a minor, an independent trustee can monitor and serve as a counterpart to the custodian[4].

Liquidity

During the trustor's lifetime, no insurance benefits will be injected into the trust, so more capital is available for flexible allocation[5].

Value preservation

Depends on the performance of the relevant life insurance policy.

Cost

The cost of setting up an insurance trust varies from company to company. An annual management fee (over 1% of net asset value) is charged only after the trust is activated, which helps keep costs lower[5].

Privacy

A standby trust deed is a private document, and is kept strictly confidential[4].

Processing time

If only simple assets are involved, such as bank deposits and insurance policies, a trust can be set up in as little as one to two weeks. The time required for the trust to go from standby mode to activation, on the other hand, will depend on the life insurance claim procedures.

Risks

Since the beneficiary of the life insurance policy is the trust company, the heir will be adversely affected if the trust company closes down.

4. Hong Kong Economic Journal: A legal tool that combines life insurance and trusts (10 April 2021)
5. BBC: Elderly segment brings business opportunities (Wong Chor Ki, 12 July 2016)

5. Gift

Definition

Within the context of legal planning, a gift refers to the rights to specific assets unconditionally transferred by the giver to another individual through a deed.

Key features

Gifting is subject to no restrictions. Gifts can be given to designated family members or non-profit organisations to support social causes*.

*The requirements and conditions for setting up a gift deed depends on individual circumstances. For details, consult legal and financial professionals.

Liquidity

Not applicable.

Value preservation

Not applicable.

Cost

Gifting involves no costs.

Processing time

Since assets are already transferred as gifts, there is no need to go through probate.

Risks

- During divorce proceedings, if one side attempts to cause the other side's financial aid application to be unsuccessful through the use of certain asset arrangements (including gifting), the court can order the asset arrangements to be invalidated[1].
- If the gift giver declares bankruptcy, the bankruptcy trustee may demand the return of gifted assets[2].

1. Cap. 192, the law of Hong Kong: Matrimonial Proceedings and Property Ordinance
2. Cap. 6, the law of Hong Kong: Bankruptcy Ordinance

6. Enduring power of attorney

Definition

An enduring power of attorney (EPA) is a legal document that allows the donor (the person who wishes to transfer authority to another person), while they are mentally capable, to appoint an attorney. If the donor subsequently becomes mentally incapacitated, the appointed attorney will manage their financial affairs on their behalf[3].

Key features

The appointment of more than one attorney is allowed. An EPA can help ease the difficulties and distress that may otherwise be suffered by the donor's family (eg elderly spouse) in managing their affairs[3].

Liquidity

Not applicable.

Value preservation

Not applicable.

Cost

The fee for setting up an EPA through a lawyer or doctor depends on the law firm or organisation.

Privacy

An EPA is a legal document whose contents are confidential, so privacy is protected.

Processing time

Since an EPA only comes into effect when the donor becomes mentally incapacitated, processing time cannot be estimated.

Risks

- An EPA signed in the presence of a registered physician only constitutes an incomplete and legally invalid document. For an EPA to have legal authority, it must be witnessed by a lawyer and registered at the High Court[3].
- Since, unless otherwise stated, an EPA takes effect only when the donor has become mentally incapacitated, the circumstances surrounding its activation tend to be unusual. In addition, if the donor passes away or is ordered to declare bankruptcy, the EPA will be invalidated[3].

3. Department of Justice: General Information on Enduring Power of Attorney

Case study

Inheritance plan with protection and long-term savings elements

Mr Lee, 35, is a department head at a multinational company. His wife, a teacher, gave birth to a baby boy last year.

Entering a new life stage has given Mr Lee a very different perspective on wealth management. Before becoming a father, he was very much focused on his personal enjoyment. Now, his family is priority No.1. His goal is to accumulate wealth for his family, plan for his son’s overseas education and build up retirement reserves for himself and his wife.

Mr Lee understands that retirement and legacy planning should be undertaken as early as possible to minimise the impact of an unforeseeable future event on his family. As they are planning to immigrate to the UK and will need a tax strategy vis-à-vis the estate tax and related policies there, life insurance has become a suitable legacy planning tool for them.

Mr Lee takes up the HSBC Wealth Goal Insurance Plan II, which gives him the flexibility to plan his succession while accumulating the policy’s value. That way, the legacy he has worked hard to build can be passed on to the next generation smoothly.

Notes:

1. The figures in this example are hypothetical and provided for illustrative purposes only, and are subject to rounding adjustment. Please refer to the figures provided in your insurance proposal.
2. "Cash value" is calculated using the current assumed investment returns. It includes the projected guaranteed cash value and the projected special bonus which is non-guaranteed. The rate of return as shown above is therefore not guaranteed and is shown for illustration only.

HSBC Wealth Goal Insurance Plan II

Policyholder and life insured: Mr Lee

Wealth accumulation plus life protection

Mr Lee, 35
His son, below age 1

Premium paid by instalments
Premium payment period: 3 years

Annual premium: USD40,000 x 3 years
= USD120,000

Mr Lee, 45
His son, 10

Gradual wealth accumulation
At the end of the 10th policy year

Projected cash value:
USD141,655

Wealth protection

Mr Lee, 56
His son, 21

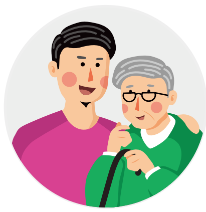
Flexible options for meeting his family's needs
In the 21st policy year

Projected cash value:
USD279,732

He can choose to:

1. Lock in part of his policy's value to stabilise his financial position instead of making a withdrawal
2. Withdraw USD200,000 for his son's education

Wealth transfer



Mr Lee, 80
His son, 45

Passing on wealth through the generations
In the 45th policy year, he can withdraw the policy's cash value, or transfer the policy to his son

1. Projected cash value if no withdrawals have been made:
   USD1,280,677
   (1,067% of total premium paid)
2. Projected cash value if he withdraws USD200,000 when his son turns 21:
   USD365,036
   (304% of total premium paid)

Case study

Protecting the family's inheritance

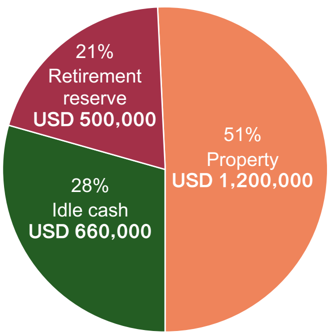
Carmen, 50, and her husband are both architects. They have 10-year-old twins – a boy and a girl. While retirement planning is a priority for them, they also hope that the rewards of decades of hard work can be passed on to their two children. Including the property they own, the couple's total assets are worth USD2.36 million, which they hope to divide evenly between their two children.

Carmen chooses Jade Global Generations Universal Life, which, in addition to providing life protection, will allow them to plan their estate and transfer the rights under the policy, all while offering them potential wealth growth.

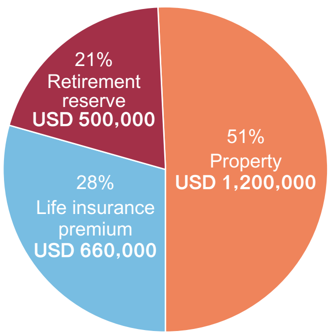
Carmen at 50

Allocating assets without insurance:

Carmen allocates most of their assets, excluding their property, to their retirement reserve, leaving the rest as a cash reserve.



Jade Global Generations Universal Life - 1st policy year



Allocating assets with insurance:

Carmen allocates USD 660,000 to a life insurance policy with a sum insured of USD2 million.

Notes:
1. The figures in this example are hypothetical and provided for illustrative purposes only, and are subject to rounding adjustment. Please refer to the figures provided in your insurance proposal.
2. "Cash value" is calculated using the current assumed investment returns. It includes the projected guaranteed cash value and the projected special bonus which is non-guaranteed. The rate of return as shown above is therefore not guaranteed and is shown for illustration only.
3. The above is based on the assumption that the life insured is a non-smoker who does not have any special medical condition.

Carmen, from 50 to 65

Insufficient overall protection

Since Carmen has not purchased life insurance, if anything happens to her in the future, her husband would become the only source of income for the family, and his earnings might not be enough for maintaining the family's standard of living.

If Carmen is ever diagnosed with a terminal-stage disease, substantial medical expenses would be incurred; the result would likely be a heavy financial burden for the family and fewer affordable options for the children's education.

Jade Global Generations Universal Life - 1st to 15th policy year

Whole life protection

In the unfortunate event of Carmen's death, a death benefit of USD2 million will be paid to provide her husband and children with timely financial protection.

Advance death benefit payment option

If Carmen is diagnosed with a life-threatening, terminal-stage disease, a benefit will immediately be paid in advance (amount subject to policy details); her family's quality of life can still be maintained in the event of a health problem.

Long-term growth potential

If she stays healthy, the cash value of her policy can be used to bolster her retirement reserve; alternatively, its long-term growth potential can add value to her kids' inheritance.

Carmen at 65

Retirement reserve

USD 500,000

Idle cash

USD 660,000

Property after value appreciation

USD 2,000,000

Wealth growth and estate planning may not meet expectations

Even though the value of their property has gone up, there has been no return on their cash and retirement reserves, which means they still can't keep up with inflation.

The growth of their assets is lower than if they have used the insurance option.

If they want to distribute their assets equally among their children, they will need to split their assets by selling their property.

Jade Global Generations Universal Life - 15th policy year

Retirement reserve

USD 500,000

Life insurance cash value

USD 880,000

Property after value appreciation

USD 2,000,000

Immediate death benefit payment

If Carmen unfortunately passes away while she is the life insured, the beneficiary (her daughter) will immediately receive a death benefit of USD2 million, giving the family an important emergency financial resource, without having to undergo probate. At the same time, her son will inherit the USD2 million property. That way, Carmen's two children will receive roughly equal portions of her assets without having to sell and split up the property.

Estate planning to look after the next generation

Thanks to the long-term growth potential of the policy's cash value, they have been accumulating their wealth for the past 15 years. Now the total cash value stands at USD880,000, a full 133% of total premium paid.

Her property has risen in value to USD2 million and the total assets have become USD3.38 million, putting her in a strong overall financial position, with assets that can be flexibly allocated.

Change of Life Insured for cross-generational planning

Carmen also has the option of transferring the policy to her children during her lifetime, paving the way to her daughter's succession. This would allow her daughter to become both the holder and the life insured of the policy, and to inherit the protections, rights and cash value under the policy.

Interview

Second-generation entrepreneurs driving the succession process

Succession is a part of life planning, and every bit as important as wealth creation. To people who are taking over the family business, a cross-generational succession plan is the cornerstone for preserving the family heritage and continuing the family business. Founded by new-generation entrepreneurs in Hong Kong, 2GHK has witnessed the changing of the times alongside the older generation. Two chairpersons of 2GHK, themselves heirs to family businesses, talk to us about succession and family values.

What is succession? What are the most worthwhile things to pass on?

F: In the past, I thought succession was all about transferring wealth or businesses from one generation to the next. Since I got into business myself, I've realised that it's even more important to inherit the last generation's experience, attitudes and values. Even though values are abstract, having the right attitudes to face problems is actually the key to achieving success and overcoming challenges. The right attitude is an attribute that's more precious than even wealth.

A: Other than money and business interests, you can also inherit your family's beliefs, principles and management practices. At first, I thought succession was about passing on the family business through the generations. Thankfully, my father was very open-minded about it and only expected us to inherit the family's values, and even encouraged us to sell the businesses we were not interested in so we could focus on what we wanted to do. A number of 2GHK members have the same experience. Through effective communication, the elders would involve the next generation in the planning process and let them express their opinions.

In general, do a lot of successors to Hong Kong entrepreneurs want to inherit the family business?

A: There are no official numbers, but take our fellow members as an example, most of them don't want to take over the family business. When 2GHK was founded 15 years ago, over 90% of our members were the children of factory owners. Their families owned factories in the Pearl River Delta that manufactured garments, electronics, hardware, toys, etc, and were moving from OEM production to building their own brands. Later, as the market became increasingly competitive and profit margins began to shrink, many factories had to downsize or change what they did, gradually becoming sunset industries. Now less than 50% of our members still have manufacturing as their primary focus.

Another factor is, working with your family often leads to friction and disputes. Business is rational, family ties are emotional. So there's an inherent contradiction. That's another reason why many members don't want to be involved in their family businesses. There's a reason why people say starting a business is hard, holding on to it is harder.

How do you help members with succession and share resources?

F: Before the pandemic, we met over dinner every month to share insights and learn about each other's problems. The things we talked about included how to communicate with parents, other family members and long-serving staff members, operations, publicity, finance and logistics; we borrow ideas from each other and take reference from how these issues are being handled by other members. In this way, all of us learn a lot about the succession process. You could say we all grew together.

A: It's like taking history lessons, summarising others' successes and failures, learning from their experiences to achieve your own goals. And sharing problems with friends and supporting each other is also a good way to relieve stress and lighten moods. We've held different seminars and encouraged members to attend with their parents to help bridge the gap between generations. When both sides understand the difficulties each other is facing, communication becomes a lot easier. Actually, the key to a smooth succession is communication.

F: We need to facilitate this communication process. The first thing to do, put aside your biases, find a middle ground; both sides have to meet each other half way. Other than sharing experiences, we have also set up a resource-sharing website. In the past, you could do business in an ivory tower, so to speak, with little regard for what was happening on the outside. Now we're in a very different era, and business is very competitive. 2GHK brings together like-minded members in similar circumstances. Sometimes a fellow member has a problem and needs help. One time, a friend of mine asked me for assistance in arranging a shipment to Germany. Logistics wasn't my forte so I asked for suggestions in our chat group. The response was overwhelming. That's a testament to what people can accomplish by working together, and the result exceeded all expectations.

A: A relative of one of the members owns a building on the waterfront in Hong Kong, and wanted to produce some lighting effects on the exteriors. But there are very few local production companies that do that. After a few introductions were made, one of the members took on the project. When it was done and other building owners saw the results, they also commissioned that member to produce exterior light installations for their buildings. In the end, that member got calls from several clients.

How do you find new directions as a successor?

A: The social networks and resources the family owns are all related to the kind of business it does. If you branch out into another area, you risk losing your competitive advantage. Instead, it's probably a better idea to use your existing advantages to create brand extensions, second lines and supplementary products. If you do what you like, you have a much higher chance of succeeding. Once you've found the right direction, you can expand gradually to realise your dreams. Safeguarding the family business may be hard, but you can also innovate and try new things while you're doing it. In other words, what is being passed on is the entrepreneurial spirit.

Take me as an example. My father owned an electronics factory, but I was never very interested in electronic components. Since our company also made lighting fixtures and I thought it had potential, I decided to combine lighting and engineering. Now we mainly focus on the engineering side of it, including the installation of LED walls for buildings and events.

How do you help facilitate the succession process in society?

F: Before you can pass on a business, you have to preserve it. On the one hand, we help members with succession and innovation, indirectly contributing to the preservation of local industries and enabling them to become the cornerstones of the economy. On the other hand, we participate regularly in different community service programmes to help perpetuate society's core values. Several years ago, for example, we took part in a flag day with the children of some members so they could learn how to help others.

A: We have committee members in charge of public service, organising different activities every year to give back to society. During the early days of the pandemic, the severe shortage of face masks affected underprivileged people particularly hard. We took up a collection and used the proceeds to buy and distribute masks to people in need. We also helped renovate elderlies' homes and repair their household appliances as a way to thank the older generations for their contributions to Hong Kong. We have organised Social Entrepreneur for Tomorrow to encourage young people to be creative and establish new enterprises that are beneficial to society.

How can we plan our succession in a way that has greater benefits for future generations?

F: If an heir is not financially prudent enough after inheriting the family's assets, they may invest aggressively or overspend. So they may not only fail to sustain the family business, they might actually ruin it. A key factor is therefore risk management. And whether on a personal or business level, wealth management is equally important. Maintaining sufficient cash flow is a basic requirement, plus cost control and making good use of resources and connections.

A: Wealth management should not be neglected. Some people set up trust funds for clients, who do it not only for tax purposes. They are worried that if their children get all the money in one go, they may not make good use of it. Special arrangements are good for long-term wealth management and can help accumulate wealth gradually. Also, if you have more than one kid, start planning early and let the next generation know about your plan to ensure a smooth succession. That will have a positive impact on both family and business.

Interview

Collectible digital art Moving beyond the traditional

In the past, traditional masterpieces such as paintings and sculptures by great artists often broke auction records and became hot topics around the world. In recent years, the art world is increasingly turning to such new technologies as virtual currencies and blockchains to ensure the uniqueness of art collections. As a result, new auction records are now often set by digital artworks, and the surge in public interest is accompanied by many questions about this type of assets as inheritance. We talked to Mr Jacky Ho, Vice President at Christie's, to gain some insights into traditional and digital arts.

Many art collectors favour traditional art pieces. Some even use them as an estate planning tool. What are the things to pay attention to?

Traditional art pieces appreciate in value steadily, especially works that are widely considered masterpieces. Careful attention must be paid, however, to provenance and certification. All relevant certificates, authentication reports and transaction records must be kept intact for appraisal and resale in the future.

How to care for paintings and sculptures to preserve their value?

Different kinds of art should be maintained differently. For oil paintings, it's important to maintain optimum humidity and temperature, and keep them away from sunlight. Regular professional care would be best. As for sculptures, the best maintenance depends on the material used. Failure to take proper care of an art piece might result in damage, which could have a big impact on the resell value.

How do we choose traditional art pieces that have higher potential to appreciate in value? Any prominent examples?

Know more about the artist and their works, such as the stylistic signatures associated with different periods or the works the artist is known for. Stay in touch with people in the art world, including those working at art galleries, museums and auction houses to obtain more market intel.

Jean-Michel Basquiat's Donut Revenge has been the toast of the art world for its skyrocketing prices. In 1995, it was sold at a Christie's auction in New York for USD90,500. By the time it went under the hammer again in 2021, it fetched HKD163,300,000.

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What is a non-fungible token (NFT)?

Simply put, an NFT is a type of virtual asset that is produced by encrypting specific information and storing it in blockchain to signify ownership, which enables the NFT to be traded on online platforms. Common NFTs include digital images, illustrations, audio-visual contents, short videos, games or the characters and their equipment in animated features. But it can also be in other forms, including even real objects.

NFT and cryptocurrencies are both based on blockchain technology. The key difference is whether it is 'fungible'. A cryptocurrency is a fungible token.

Take bitcoin as an example. All bitcoins with the same value are identical, so they are interchangeable and can be divided into smaller units. An NFT, on the other hand, is a 'non-fungible token', that is, the data represented by each NFT is different. That's why NFTs are not interchangeable and cannot be divided. Since blockchain records cannot be altered or deleted, all transaction records regarding an NFT are available to the public. That's why an NFT stored on blockchain cannot be counterfeited[1].

Digital artworks can fetch prices that are sometimes comparable to those of paintings by the masters. Why is that?

The market is still at its developmental stage, so it's hard to predict what will happen in the future. International art collectors are adapting to a new age, and more and more people are buying and selling digital assets. What was once a tool for science and technology has now found its way into popular culture, and works are attracting the attention of elite collectors in the traditional art market. Also, NFTs offer multiple applications, as they can be used to:

- Establish the uniqueness of artworks
- Verify ownership
- Maintain detailed records

Ultimately, though, digital art is just like other types of art. Value is predicated on artistic merit, and the popularity of the artist. If you look at the recent transactions involving digital art, it doesn't matter what medium a masterpiece is created in; if it's good, it'll attract high bids.

Compared with traditional artworks, NFTs have a number of competitive advantages:

• Decentralisation

Works don't have to be endorsed by traditionally influential entities such as museums and art galleries, which encourages the emergence of new artistic styles.

• Combining old and new

You can collect the works of the established masters like Andy Warhol and Jean-Michel Basquiat, or you can acquire the latest creations by contemporary artists such as Beeple and Larva Labs for the zeitgeist they are depicting. That means the value of digital works can be just as high as that of traditional works.

• Attracting new customers and a younger audience

The registered bidders at Christie's auctions have an average age of only 42, and 75% of them are new customers[2].

• Changing the concept of ownership and execution methods

Since the origins and exhibition histories of digital artworks and other assets can be traced, authenticity is never in doubt.

Can NFT assets be transferred or gifted to family members like conventional assets?

NFTs can be used to verify jpeg images and other digital assets to confirm they are one-of-a-kind. Generally speaking, permanently traceable artworks can be bought, sold or transferred freely, for example to an heir. After buying an NFT asset, a collector can re-sell or transfer it through e-wallet providers or third-party service platforms that support blockchains.

Are digital assets developing in different countries/regions?

Buyers of NFT assets are from all over the world, so the market has good prospects. In March 2021, Everydays: The First 5,000 Days, a collage Beeple had been painting every day for 14 years, was sold for a record USD69 million. It attracted attention from not only younger art lovers but traditional collectors as well.

• Andy Warhol: Machine Made: for the online auction in May 2021 of five NFT paintings by the master of modern art, the split between traditional buyers and collectors of encrypted art was about 50/50, indicating the broad-based appeal of the works. About two-thirds of the buyers were from the Americas. Of the rest were, 50% were from Europe and 50% from Asia.

Andy Warhol: Machine Made

Proportions of buyers from different continents:

• 21st Century Art Night: A number of works by CryptoPunks with a total value of USD17 million were sold at auction on 11 May 2021. One-third of the bidders were new clients, three-quarters were from the Americas, and the rest from Asia.

1. Investor and Financial Education Council: Are Non-Fungible Tokens (NFTs) art, collectibles or investment products? (18 May 2021)
2. Christie's data, as of November 2021.

Afterword

A good succession plan extends achievements, preserves wealth, celebrates family history, and empowers future generations. It is a testament to your generosity and love of family. But legacy planning is not just a matter of passing the baton. The right plan should be put in place, and the appropriate legacy planning tools assembled, to explore today's possibilities and secure your heirs' financial independence. Ultimately, an enduring legacy is not about how much wealth is inherited, but how many lasting values are passed on to inspire the next generation to create a future like no other.

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