Personal Perspectives

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Introduction

In this third edition of our Private Client publication, Personal Perspectives, we share key insights into the current trends impacting high net worth (**HNW**) individuals and families.

It is an established principle that investing money leads to wealth creation over time, allowing you to fulfil basic needs and to meet long-term goals for your family and your business. Investment diversification is believed to be effective because various assets in a diversified portfolio react differently to the same economic event. Risk is also lower, when a portfolio is diversified, because it is rare that the entire portfolio would be wiped out by any single event.

Despite diversifying your investment portfolio, you also need to manage the tax compliance in respect of the returns from the investments making up the portfolio. For HNW individuals and families, the 'Wealth Tax' report[1] issued by the Davis Tax Committee in March 2018 provides for two key interlinked considerations: "Wealth inequality in South Africa is extremely high…" and "More work is needed to ensure that the tax is well designed and will yield more revenue than it costs to administer." With this in mind, KPMG Enterprise's global study on the tax cost of transferring a family business becomes increasingly relevant with its alarming results for South Africa.

As for insights regarding investment alternatives and tax amendments impacting HNW individuals and families, there are a multitude of considerations. In this issue, we highlight the most recent trends.

For those HNW individuals and families invested in cryptocurrency, it is important to be aware of the recent income tax proposals, where affected taxpayers are expected to declare cryptocurrency gains or losses as part of their taxable income. This may sound fairly straightforward, however, there are practical challenges that would need to be considered which is where the assistance of tax experts may be necessary.

Continuing with the tax trends, in 2017 we saw the rejection of proposals to legislative changes related to foreign trusts invested in foreign companies and 'look though' provisions for beneficiaries of the trust. In 2018, SARS revisited this topic and has now proposed amendments which will impact on any foreign trust structures you and/or your family may have in place to manage your wealth.

As for jurisdictions in which you may wish to implement a wealth management structure, over the past decade, a large number of HNW individuals, families and investors have looked to Mauritius. The majority are moving their wealth to Mauritius, as it meets their lifestyle and business aspirations and it also has an attractive fiscal regime for individuals. In this issue we set out some of the Mauritius laws, incentives and investment opportunities that contribute to these relocation decisions.

In a family business environment, investment also needs to take the form of re-investment into the business. Our family business team have spent some time looking into the current trends, and it is evident that business families want to grow, and when looking to organic growth there should be an emphasis on the people in the business, both family and non-family. It is these two aspects which we share some insight into.

As always, if you have any comments, feedback or suggestions of what you would like us to cover in future issues, please do get in touch with our International Private Client (IPC) or Family Business teams.

KPMG Enterprise

[1] Feasibility Of A Wealth Tax In South Africa

Content

1 What's the tax bill for transferring a family business in South Africa?

KPMG Enterprise's study reveals some eye opening results for South African family business owners.

Introduction

Succession planning is a vital consideration for business families to effectively transfer their business from one generation to the next. Although estate planning generally focusses on an individual family member's tax costs associated with passing on assets on inheritance (i.e. death), the consequences for the next generation receiving the assets also has to be considered. Importantly, the question should be whether the transfer of the ownership of a family business on inheritance is too late?

Following on these questions, this year (2018) KPMG Enterprise initiated its third Global Family Business Tax Monitor across 65 jurisdictions to assess the tax costs associated with family business ownership succession, either on retirement or inheritance. The study has revealed some surprising results.

For South Africans, both the current family business owners and also the regulators (i.e. National Treasury and the South African Revenue Service), the results from the study may be better referred to as concerning. KPMG Enterprise believes that both should adopt a long-term view as opposed to a short-term view to generate perpetual growth of the family business and, in turn, the economy through both job creation and perpetual growth of the tax base and revenues to support the economy.

South African tax costs

The KPMG Enterprise study deals with two scenarios, namely ownership succession on retirement and also on inheritance. The findings set out a comparative analysis of the effective tax rates both pre- and post- tax exemptions for both scenarios. The reason why the pre- and post- tax exemption scenarios are given is to illustrate how misleading it can be simply to look at the actual tax rates. Once relevant tax exemptions (in some cases specifically for family businesses) are taken into account the actual effective tax rates (i.e. payable to the revenue authority) can look very different.

— On inheritance: this is where the current generation leaves the ownership of the family business to the next generation in their will.

  The results for South Africa reflect that in the absence of any tax exemptions South African individuals would pay the tenth highest tax rates, all taxes together equating to total effective tax rate of 36.9%. However, for South Africans the real concern lies in the post- tax exemption comparison. Where a South African individual(s) passes on their shares in the family business to the next generation, he/she will actually incur an effective tax rate of 36.1%.

  On a comparative basis, this leaves South Africa as the most expensive jurisdiction, and the closest two jurisdictions thereafter are:

  - Canada at 23.44%; and
  - Japan at 18.81%

  Thus, after taking relevant tax exemptions into account the tax cost of passing the shares in a family business to the next generation is significantly higher for a South African family business owner versus his or her counterparts elsewhere.

  Of further interest to note is that South Africa was second to Japan when looking back to KPMG Enterprise's 2016 study, with Japan's effective tax rate (post- tax exemptions) of 41.94% in that year, compared to the current 18.81%. It would thus appear that the Japanese policymakers recognised, in the interim, the importance of reducing tax as a hindrance for passing family businesses through generations.

— The retirement alternative presents an equally bleak picture for South African family businesses:

  The retirement scenario looked at the position where the current generation passes on the ownership of the family business to the next generation when they decide to retire.

On a pre- tax exemption basis, South African individuals would pay the ninth highest total effective tax rate, equating to an effective tax rate of 36.9%. However, once again for South Africans, the concern is the post- tax exemption comparison. The South African individual(s) who passes their shares in the family business to the next generation through retirement incurs an effective tax rate of 36.88%.

Once again, on a comparative basis, this leaves South Africa as the most expensive jurisdiction, with the closest two jurisdictions being:

- Venezuela at 30.75%
- Australia at 25.09%

The trend noted above is unchanged in that in the 2016 study South Africa was also second to Japan, with Japan's effective tax rate of 60.78%, compared to the current 18.81%.

Of further interest is that there are many countries (39 to be precise), including the UK, Germany, Italy and Switzerland in Europe, China and New Zealand in the Asia Pacific, Nigeria and Morocco in Africa that have a zero effective rate on either retirement or inheritance.

The follow-up question on everyone's mind

The follow-up question on everyone's mind is, what do the regulators in the jurisdictions with no/low effective tax costs, now also including Japan, see in family businesses that other regulators have not considered?

From a KPMG Enterprise perspective, Jonathan Lavender, Co-Chair KPMG Enterprise Family Business & Global Chairman, notes *A thriving family business sector contributes to a vibrant economy. Tax-efficient transfers between generations leave wealth in the hands of entrepreneurial families to invest in profit-producing activities — and that can help stimulate job creation and innovation across generations"*, which in our view are the more lucrative benefits to an economy.

The positive 'side-effect' of these lucrative economic benefits is that the tax base for the jurisdiction will grow, and the collection levels will, in all likelihood, grow in perpetuity. This perpetual growth in the tax base/collection, should accordingly outweigh the tax lost through exemptions provided for passing on the shares in a family business at a point in time, be it retirement or on death.

Risks and considerations associated with high short-term tax costs

One also needs to consider the inherent risks/pragmatic considerations, which are all interlinked, associated with imposing tax costs on the transfer of the ownership of a family business:

— As the transaction will be between family members, with no cash consideration, how will the payment of the tax costs realised be funded?

— Families are generally fully invested in their family business, and it seems that selling off a portion of the shares or assets to generate the cash to pay the taxes may be one of the very few alternatives.

— This brings about another key question, to whom can the shares be sold? A non-family investor? and if so, what is the impact on the future of the family business?

— A more worrying thought, and in our experience more often than not realised, is that the tax cost is so high that the family business may no longer be able to continue, and thus the tax cost results in 'killing off' one of the key contributors to the economy.

What are the key considerations for regulators?

With reference to the Davis Tax Committee's (**DTC**) report on the 'Feasibility of a Wealth Tax in South Africa' (released in March 2018), the introduction to the report states that *"South Africa has existing wealth taxes in the forms of Transfer Duty, Estate Duty and Donations Tax."* This statement aligns with the views noted above with reference to the KPMG findings, and it is these taxes that contribute to the significant tax cost associated with the ownership succession of a family business.

The DTC report goes on to state that *"Wealth inequality in South Africa is extremely high and poses a threat to social stability and inclusive growth."* The DTC cautions that new and alternative taxes will not resolve these economic issues, but in recognition of the need to be seen to be addressing the wealth inequality in the country the DTC provides the view that, if an alternative wealth tax is to be imposed, a recurrent net wealth tax may be a desirable form thereof. However, the DTC report does stress that any wealth tax should be well designed and should yield more revenue than the costs to administer the wealth tax.

Reiterating the economic benefits associated with a successful family business, noted by Jonathan Lavender above, not only the likely perpetual tax benefits, it is apparent that increasing the South African wealth taxes already in play may further jeopardise the inclusive growth and social stability multi-generational business families can provide the South African economy.

As such the DTC's view that the design and yield of the wealth tax, be it a new tax or revision of the current wealth taxes, be appropriately considered is a valid recommendation. In this regard, reference should be had to the experience/lessons of other jurisdictions, and importantly the costs of administration both for the tax administration and the taxpayer, as referenced in the DTC report. The DTC suggests that alternative non-tax solutions are available, should the complexity and cost of introducing new taxes be seen to be untenable, and that, in the meantime, existing wealth taxes could be better administered to yield more.

The regulators also need to be mindful of adopting a short-term view in this regard. Extracting additional revenues in the short-term, associated with implementing/increasing the wealth taxes, also increases the risk of the key contributors to South Africa's revenue collection extracting themselves from the South African tax base. Such key contributors are very mobile and are able to move the family business to a more attractive jurisdiction, as well as the personal wealth of the family. Thus, a short-term view could hinder the economic growth of the economy, which in turn hinders perpetual tax revenues associated with the growth of an economy.

It is never too early to start planning?

One of KPMG Enterprise's overriding recommendations to any family business is that it is never too early to start planning for ownership succession. Although the tax costs, as set out in the KPMG report, are a key consideration in this regard, there are also other financial and personal implications for the family as a whole.

Planning in this regard requires consideration of the family governance structures, which should at the least incorporate:

- The family constitution, and the interaction of such with the wills of the family members and the shareholders' agreement(s) of the family businesses;
- The formal structures formed to manage the family wealth, and the financial planning associated with future decisions that may need to be made in respect of the family wealth;
- Monitoring the value of the family assets, which includes the successful family businesses, including governance and regulatory compliance reviews, as non-compliance negatively impacts the value of the family assets; and
- Most importantly, regular and open channels of communication amongst family members.

In our experience the values of the family will drive the governance considerations, supported by the overriding motivation being the long-term view to provide for the future generations of the family. The unfortunate reality, however, is that in too many cases the planning is implemented too late, or is never formalised or communicated. The cost of late/no planning for the inevitable eventuality of ownership succession is that it can destroy the legacy of the family business and, more importantly, the financial well-being of the future generations of the family.

In light of the above KPMG Enterprise acknowledges the fact that families running business do not always have the time and/or expertise to formalise and implement the planning process. In addition, within a family environment, there is the need for an independent voice. As such, the final consideration is for the family to work with an independent trusted advisor who understands the values and needs of the family, and poses the difficult questions for the family to consider before it is too late.

Concluding comments

Currently South African family business owners need to acknowledge that they will trigger relatively higher tax costs on transfer of the ownership of the business to the next generation.

So in conclusion, it is recommended that both the regulators and family business owners need to adopt the same approach, this being a long-term view as opposed to a short-term view. This should generate perpetual growth of the family business and, in turn, the economy through both job creation and perpetual growth of the tax base and revenues to support the economy.

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2 Managing your tax affairs while looking at new investment trends - Cryptocurrencies

For high net worth (**HNW**) individuals and families, the diversification of wealth is a key investment decision.

One form of diversification is between the 'safe bet' and the high risk, high reward opportunity. As to where cryptocurrencies lie in the investment spectrum will vary depending on who you talk to. The inherent foreign exchange hedge built into a cryptocurrency makes the placing of them in the spectrum even more difficult. In the ever changing digital revolution, there are key influencers such as George Soros and the Rockefeller family, making investments into cryptocurrencies.

Irrespective a HNW individual/family's perspective on such, should you be looking to invest, the fundamental principles of any new investment remain constant, to ensure that the tax implications of the investment are understood. This planning is to ensure there are no tax shocks along the investment term. This fundamental principle is a function of good investment governance, which is as simple as planning and understanding all aspects of the investment before diving in, in particular the relative unknown of digital assets.

What are cryptocurrencies?

A cryptocurrency is a digital or virtual currency designed to work as a medium of exchange.[1]

The most prevalent cryptocurrency is currently Bitcoin.

SARS's view

On 6 April 2018, the South African Revenue Service (**SARS**) announced that it will continue to apply normal income tax rules to cryptocurrencies and will expect affected taxpayers to declare cryptocurrency gains or losses as part of their taxable income.

SARS indicated in its statement that cryptocurrency transactions are subject to the general principles of South African tax law. This means that any revenue received as well as gains made or losses incurred in respect of cryptocurrency transactions, may either be regarded as revenue in nature and included in the taxpayer's income, or alternatively as capital in nature and subject to Capital Gains Tax (**CGT**) in terms of the Eighth Schedule of the Income Tax Act[2] (**the Act**).

In South Africa, the word "currency" is not defined in the Act. Cryptocurrencies are neither official South African tender nor widely used and accepted in South Africa as a medium of payment or exchange per the SARS statement. As such, cryptocurrencies are not regarded by SARS as a currency for income tax or CGT purposes.

Instead, cryptocurrencies are regarded by SARS as assets of an intangible nature. This was confirmed in the draft 2018 Taxation Laws Amendment Bill (**TLAB**), in which it is proposed for cryptocurrency to be included in the definition of a 'financial instrument'[3].

Capital vs Revenue test

The primary test to determine the nature of the cryptocurrency transaction and whether the transaction is of a revenue or capital nature, takes into account the taxpayer's intention when acquiring, holding and disposing of the cryptocurrency. The intention of the taxpayer must be decided considering the facts and circumstances of each case and may change over the period that the cryptocurrency is held

If it was the intention of the taxpayer to obtain the cryptocurrency for the specific purpose of profit-making, the asset will be considered to be "trading stock" and of a

[1] https://cointelegraph.com/bitcoin-for-beginners/what-are-cryptocurrencies

[2] No 58 of 1962, as amended

[3] Defined in section 1 of the Act

revenue nature and the income derived therefrom is required to be included in the taxpayer's taxable income.

How will the tax be calculated?

Since cryptocurrency transactions are subject to the general principles of South African tax law, the income tax or CGT calculation in respect of cryptocurrency transactions will be the same as for any other revenue or CGT calculation.

What the proposals in the 2018 TLAB confirm is that should the cryptocurrency amount to trading stock, then the trading stock provisions of the Act will need to be considered, i.e. the opening and closing stock adjustments. Taxpayers should also be entitled to claim expenses associated with cryptocurrency accruals or receipts, provided such expenditure is incurred in the production of the taxpayer's income and for purposes of trade. There are, however, two key considerations should the proposals be accepted:

1. The 'trading stock' value of the cryptocurrency will always be cost, i.e. there are no provisions to write down financial instruments to net realisable value. Given the instability of cryptocurrencies, this may create a cash flow implication for traders.
2. Income tax losses from trading in cryptocurrencies may be ring-fenced, i.e. taxpayers who are natural persons will be restricted in netting off their assessed losses incurred in trading cryptocurrency against their taxable income. However, cryptocurrency traders are not prevented from setting off losses from their cryptocurrency trade specifically against the income from their cryptocurrency trade.

Tax compliance

Taxes on cryptocurrencies will be payable as provisional taxes and/or assessed taxes, and will need to be included in the relevant tax return prepared and submitted to SARS.

The onus is on taxpayers to declare all income and gains including cryptocurrency-related taxable income in the tax year in which it is received or accrued. Failure to do so could result in interest as well as understatement penalties of up to 200%.

Value-Added Tax (VAT)

The 2018 annual budget review indicates that the VAT treatment of cryptocurrencies will be reviewed. Pending policy clarity in this regard, SARS will not require VAT registration as a vendor for purposes of the supply of cryptocurrencies.

Practical considerations

The nature of cryptocurrencies and how they are traded creates a practical issue in determining the amount which is subject to tax in South Africa. The practical issue relates to calculating and splitting out the unrealised foreign exchange gains associated with the cryptocurrencies on hand.

Closing comments

Taxpayers who are uncertain about specific transactions involving cryptocurrencies should work with their trusted advisor and our initial recommendation is to obtain guidance from SARS through channels such as Binding Private Rulings (depending on the nature of the transaction).

As indicated above, good investment governance principles should be followed, and communication is key between the HNW individual/family and their trusted advisor in this regard.

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3 SARS tightens the grip on foreign trust structures

Following our articles in the first two editions, ‘Who do you Trust?’ and ‘Is there a lack of Trust?’, National Treasury (**NT**) and the South African Revenue Service (**SARS**) has proposed changes to our income tax legislation[1] in relation to offshore ‘trust blockers’ which are perceived as tax avoidance structures.[2]

The first question to answer is what is an ‘offshore trust blocker’? Simply it is an offshore structure where a foreign trust is interposed between a South African investor and a foreign company. The South African investor is a beneficiary/donor to the foreign trust and the foreign trust owns shares in the foreign company.

In the context of Personal Perspectives, high net worth (**HNW**) South African tax resident individuals/families, which have an offshore trust structure in place, need to be aware of the recent tax proposals affecting the returns flowing through offshore trusts.

The current tax implications of an offshore trust structure:

The key income tax implications of a foreign trust holding shares in a foreign company are currently:

Dividends declared by the foreign company:

The ITA provides a foreign dividend ‘participation’ exemption where a South African taxpayer holds more than 10% of the shares (i.e. participation/voting rights) in the foreign company.

Accordingly, applying such to the offshore trust structure, where the foreign trust holds more than 10% in the foreign company, should the foreign company declare a dividend to its shareholders, including the foreign trust, and the dividend is included in the taxable income of either:

- the South African tax resident donor of the foreign trust, applying the attribution rules of the ITA; or
- a South African tax resident beneficiary of the foreign trust, on vesting of the dividend income,

the dividend will be exempt from income tax in South Africa.

Capital gains realised in respect of the shares held in the foreign company:

The ITA also provides a ‘participation’ exemption in respect of capital gains realised on the disposal of shares in a foreign company, where a South African taxpayer holds more than 10% of the shares (i.e. participation/voting rights) in the foreign company.

Once again, applying such to the offshore trust structure, where the foreign trust holds more than 10% in the foreign company, should the foreign trust dispose of shares in the foreign company, and the capital gain is included in the taxable income of either:

- the South African tax resident donor of the foreign trust, applying the attribution rules of the ITA; or
- a South African tax resident beneficiary of the foreign trust, on vesting of the capital gain,

the capital gain will not be subject to income tax in South Africa.

The proposed amendments to the tax legislation:

It is the scenario/practice implemented by HNW individual/family taxpayers to re-characterise income by putting in place a structure in which donations are individually

[1] Income Tax Act, No 58 of 1962, as amended

[2] 2018 Taxation Laws Amendment Bill (**TLAB**), first draft released July 2018

made by connected persons to a foreign trust which in turn holds equity interests in a foreign company, above the 10% threshold. Accordingly, the dividends received/capital gains realised by the foreign trust meet the requirements of the participation exemption, in essence paying no income tax in South Africa.

NT and SARS are of the view that by using a foreign trust blocker, HNW individuals/families are effectively avoiding the controlled foreign company (**CFC**) provisions of the ITA. The CFC provisions are complex (many view them to be overly complex) but in essence require a South African tax resident which holds, with other South African tax residents, more than 50% participation/voting rights in a foreign company, to impute the proportionate share of the taxable income of the foreign company in the South African residents tax calculation for purposes of their South African tax liability. These are the 'trust blocker' anti-avoidance structures NT and SARS are seeking to bring back to an income tax paying position.

The 2018 proposed changes are on the back of the rejected proposals suggested by NT and SARS in 2017, whereby it was proposed to 'look-through' the trust blocker and treat the foreign company, in which the foreign trust had invested, as a CFC. The reasons for the rejection of the 2017 proposal were twofold, the first being that the proposal was too broad, and the second was due to the fact that the proposal essentially resulted in a South African beneficiary being subject to tax on income it had no real right to.

To clarify, the rejected proposal only related to natural person beneficiaries/donors. NT and SARS were successful in 'looking through' a trust blocker interposed within a group of companies.[3]

It is against this backdrop that NT and SARS has proposed the 2018 amendments to effectively remove the participation exemptions for both dividends and capital gains realised through the trust blocker structures.

The key determinant as to whether the exemptions should be disregarded are the foreign trust structures where more than 50% of the total participation rights or voting rights in that foreign company, are directly or indirectly exercisable by the foreign trust or by any one or more persons that are connected persons in relation to that trust.

These proposed amendments, if and when promulgated, will have an impact on any foreign trust structures you and/or your family may have in place to manage your/the family wealth.

Take-away

It is crucial that taxpayers (and/or their tax advisors) keep up to date with current legislative changes in order to structure their tax affairs appropriately, where there is any uncertainty, advice from registered tax practitioners should be sought.

What is of particular importance is that the impacted taxpayers should be aware of the change in the tax treatment of the distributions from foreign trusts from 1 March 2019.

What needs to be highlighted is that a trust is still an appropriate mechanism for individuals and families to manage their wealth/assets, it is just more important to ensure the necessary governance structures are in place to ensure compliance with the tax changes, and other regulatory changes.

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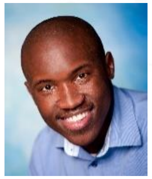
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[3] Where the accounting standards, specifically IFRS 10, require a group to be consolidated, including a trust, then the CFC rules will apply.

4 Wealth management - Mauritius incentives

With a robust and growing financial services sector, Mauritius has over the past three decades forged a strong reputation as a premier International Financial Services Centre (**IFC**) of substance.

Mauritius is politically and economically stable, and is ranked as the easiest place in Africa to do business. It possesses an innovative business environment, sound and robust regulatory framework, a pool of bilingual highly qualified professionals, modern banking and technological infrastructure, and legal and accounting institutions.

With a growing network of Investment Promotion and Protections Agreements, and Double Taxation Agreements, Mauritius offers a trusted and well regulated platform for doing business.

Mauritius is also adhering to all the international best practices on transparency in tax matters and combatting money laundering. Mauritius has enacted the required legislations for exchange of information under the USA Foreign Account Tax Compliance Act and the Common Reporting Standards.

International Private Wealth management and estate planning

While, the bulk of the international business services have been towards corporate and fund related services, Mauritius has over the past few decades seen an increasing demand for private wealth management and estate planning. Various internationally recognised asset managers have established operations in Mauritius, and several international banks are present in Mauritius and offer tailor made private banking services and transaction banking services to the private individual market.

It meets the lifestyle and business aspirations of high net worth individuals **(HNWIs)** and it also has an attractive fiscal regime for individuals, leading to HNWIs choosing to be domiciled in Mauritius and even becoming tax resident in the country. This is evidenced by the number of HNWIs, families and investors that are establishing businesses and concentrating their operations in Mauritius, with more and more people partaking in the Mauritian economy over time.

This is achieved through the Mauritius laws providing the required guidance and incentives, and a range of legal structures (Trusts, Foundations, Private Trust Companies and other corporate structures) available for estate planning. Some of the incentives being:

- Allowing for the setting up of various types of trusts, amongst others, fixed, discretionary, protective, purpose and charitable trusts.
- 2012 legislation to enable the setting up of Foundations in Mauritius.
- The Mauritius Trust Act 2001 allows for the setting up of Private Trust Companies (**PTC**). The PTC is a company formed to act as trustee to a limited number of trusts, either for the benefit of a single family or the different branches of a family or for distinct but related family.
- 2015 tax legislation introduced the Overseas Family Office (**OFO**) income tax holiday.
- An income tax holiday to attract HNWIs to invest in Mauritius.
- The Property Development Scheme (**PDS**) to facilitate the development and purchase of residential luxury estate by individuals and families which are not citizens of Mauritius.
- Various other alternatives are available to obtain an occupation permit or residence permit Mauritius.

The OFO tax holiday

An overseas family office which is licensed on or after 1 September 2016 is, subject to satisfying prescribed substance requirements, exempt from income tax for a period of 5 years as from the income year in which it was licensed.

The Overseas Family Office can be set up either as a single or multiple family office structure, and the prescribed substance requirements are as follows:

Requirement	Single OFO	Multiple OFO
Minimum number of employees resident in Mauritius	Employ at least 1professional	Employ at least 3 professionals
Minimum asset under management	USD 5 million	USD 5 million for each family
Physical Office Space in Mauritius	Required	Required

The HNWI tax holiday

Should a HNWI who is not a citizen of Mauritius invest as set out below, they will be entitled to an income tax exemption in respect of qualifying income for a period of five years as from the year in which the relevant qualifying investment was made:

— An individual investing not less than USD 25 million in Mauritius on or after 1 September 2016

— An individual investing not less than USD 25 million in a Mauritius company, which is wholly owned by the individual

This exemption is subject to compliance with the terms and conditions that the Economic Development Board (**EDB**) may approve.

The PDS incentive

Mauritius also provides the accompanying infrastructure for HNWIs, investors and foreign nationals to live in Mauritius.

These residential properties include condominiums, villas and apartments. The PDS scheme provides for individuals and their families/dependents, which are not citizens of Mauritius, which acquire residential properties (condominiums, villas and apartments) in excess of USD 500,000, to obtain a Mauritius residence permit.

This incentive is also subject to the approval of the EDB.

Other incentives to live and work in Mauritius

— Occupation permit

Individuals which are not citizens of Mauritius can also explore the following avenues through the application of an occupation permit to work, live or retire in Mauritius, with reference to the following conditions:

Investor	Professional	Self-employed	Retired
An initial investment of USD 100,000 is required, and the business activity should generate a turnover exceeding: 1. MUR 2 million in the first year; and 2. Cumulative turnover of MUR 10 million for the subsequent two years.	The basic salary should exceed MUR 60,000 monthly. However, the basic salary for professionals in the Information and Communication Technology sector should exceed MUR 30,000 monthly.	The self-employed individual should make an initial transfer of USD 35,000 (or its equivalent in any convertible foreign currency). The business activity should generate an income exceeding MUR 600,000 annually for the first two years of activity. The annual income has been increased from MUR 600,000 to MUR 1,200,000 as from the third year of activity.	The individual must undertake to transfer an initial amount of at least USD 2,500 and thereafter at least USD 30,000 annually to his/her local Mauritius bank account by way of instalments.
The permit is granted for a maximum period of 3 consecutive years, renewable thereafter subject to established criteria.			

— Residence permit

A holder of an occupation permit is also eligible for a 10 year residence permit provided the following additional conditions are met:

Investor	Professional	Self-employed	Retired
Aggregate turnover should exceed MUR 45 million for any consecutive period of three years.	The basic monthly salary for the individual should exceed MUR 150,000 for three consecutive years preceding the application.	The business income should exceed MUR 3 million annually for the three consecutive years noted above.	The individual must undertake to transfer at least USD 40,000 annually to his/her local Mauritius bank account for three consecutive years.
The permit is granted for a maximum period of 10 consecutive years, and is renewable.			

A foreign national who has invested a minimum of USD 500,000 into a qualifying activity is also eligible for the 10 year residence permit. The qualifying activities/industries being:

- Agri-industry
- Audio-Visual, Cinema and Communication
- Banking, Financial Services and Insurance
- Construction and Infrastructure
- Education
- Environment friendly and green energy products
- Marina Development, Fisheries and Marine Resources
- Information Technology,
- Freeport, Insurance,
- Leisure and Tourism
- Manufacturing and Warehousing
- Initial Public Offerings

Investment opportunities – Fintech and innovative projects

With the influx of more sophisticated investors within the wealth management sphere and for cross border investments, Mauritius recognises that it needs to further diversify its product portfolio, and also leverage on the on new technologies.

The Mauritius Government is committed to position Mauritius as a regional hub of sound repute in the field of Fintech. As part of this ongoing initiative, the Mauritius Government in 2016 introduced the Regulatory Sandbox Licence (**RSL**) Scheme.

The RSL offers the possibility for an investor to conduct a business activity despite there being no legal framework or adequate provisions under existing Mauritius legislation. The RSL is, subject to terms and conditions issued by the EDB, available to eligible companies willing to invest in innovative projects.

Moreover, a Fintech and Innovation-Driven Financial Services Regulatory Committee (**the Committee**) has been set up. The mandate of the Committee is to, amongst other considerations, assess the current regulatory set up with respect to Fintech and Innovation-Driven Financial Services Regulations in Mauritius, and make recommendations on the need to introduce new sets of regulations for Fintech and Innovation.

Also, the Finance (Miscellaneous Provisions) Act 2018 has amended the list of financial business activities under the Financial Services Act to include Custodian Services (Digital Asset) Licence and Digital Asset Marketplace Licence. These two licences come into effect as from 1 October 2018, and will provide a regulated environment for safe custody of digital assets by investors and further enable exchange of digital assets.

Your next step to investing in Mauritius

The snippets highlighted above evidence that that Mauritius is seeking to attract investment into its economy and to facilitate the growth of business and wealth. Should you require any assistance with regard to any interest you may have in investing in Mauritius, please contact our team of specialists.

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5 Business families: Growing legacies today

People are the roots from which great businesses grow.

Within business families there is a fine balance, which has to be monitored meticulously, between family and non-family members working in the business. Couple this with the motivation to stimulate exceptional growth within a business family. Along these lines, the following two articles talk to each of these topics.

5.1 Managing the generational shift in family business

Handing over a family business from one generation to the next can be a point of pride.

Unfortunately, it can also be a source of conflict. How can family businesses maintain a smooth transition of power and responsibility?

Running a family business is no mean feat. Turning it over from one generation to the next is another challenge altogether. Unfortunately, it's one that can result in conflict.

Each generation of a family business carries different priorities when it comes to ownership, governance, management and future strategy. When priorities aren't aligned, or come into direct opposition, it can threaten the stability of the business – and the family.

According to Dominic Pelligana, Partner, KPMG Enterprise, who is actively involved with Family Business Australia, managing the different expectations of each generation is 'crucial' to ensure a smooth transition and a prosperous outlook.

"Successful family businesses may feel that their challenges are unique to them and their family dynamic," Pelligana says. "In fact, most are normal and predictable and are solved by considering independent and experienced perspectives."

The challenge of the first generation

The founding member of a family business may not think of their venture as a 'family' enterprise. They simply start a business and support the family.

"From a family perspective, the first generation puts an emphasis on the business, and the family is there to help serve the business. The priority is to keep them close to the business, and they often live on premises or nearby."

The founding generation has a strong vision for what they want for the business. Subsequent generations often look back to the founder to determine what strategies they should pursue based on their values.

The first shift in power

The most difficult and important transition is the first to second generation, and there are a number of reasons for this. These include:

- Businesses started by entrepreneurs are successful because they can exploit gaps in the market by being very nimble. They can make quick decisions and take risks unburdened by internal bureaucracy.
- Generation two usually wants to implement more formal structures and management to grow and scale up. This can be at odds with the first generation's natural leadership and management style.
- In this scenario, tension between the entrepreneur and management can be exacerbated when it is parent and child – not to mention if it transfers to a partnership of siblings.

"The focus in the second generation is more about what keeps the family together as a team," Pelligana says.

Expanding the family circle

Adding a third generation brings the need for even more improvements. This will be time for a sophisticated analysis of resources, the establishment of leadership succession plans, and a detailed shareholder relations plan.

However, Pelligana says the third generation also have challenges – particularly in that some family members may want to join the business, but lack experience. Other family members may feel pressured to join, worried if they are not personally involved day-to-day, they will not be recognised and could lose their financial share.

"By the third generation, you might have a consortium of cousins who are involved in the business. How do you give the family members the freedom to pursue what they want to do?"

What are the solutions?

It is clear there are two main problem areas: the handing over of responsibilities from the first to the second generation, and then again from the second to the third.

Pelligana says to counter this, family businesses need to build common and shared values – informed by the first generation – and have a Family Constitution to embed them.

"Sometimes, family members think the business is there to serve them, as opposed to them serving the business," he says. "Creating a set of values and a Family Constitution can stop that from happening."

When it comes to the second generation passing to the third, building a board of directors and a Family Council is recommended.

Additionally, setting clear expectations for involvement is vital. Some members may not want to be involved in management, but want a seat on the board. This is common in large businesses such as BMW or Samsung, which still have some form of family control.

"Part of these pre-agreed rules could involve the next generation gaining outside work experience at other successful businesses before joining the family business," Pelligana says.

Managing generational shifts in family business is an important and delicate process. Successful family businesses recognise this – and start planning early.

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5.2 Managing growth in a family controlled enterprise

All businesses seek growth, but it is even more important in a family owned enterprise which requires growth to sustain the growing family.

Recent research has revealed that family businesses across the globe are increasing turnover, employment and profits better and faster than the large corporate entities. Unfortunately, many family businesses are often not prepared for the struggle of managing the business effectively during this growth phase.

All businesses, from start-ups to family-owned businesses, need to ensure that the business is ready for the growth.

To help your family business growth planning, KPMG Enterprise have identified essential areas which should be assessed on a regular basis:

— **Value creation and future focus** – Is the business aware of the changing dynamics in its existing market, opportunities to diversify or introduce new products/services? This is especially important in the rapidly changing world we are currently living in.

— **Business strategy and planning** – Many businesses do not have a clear growth strategy that enables the business to understand: Where it is going (the vision and purpose, financial goals and strategic priorities); Where it will play (clearly defined business model detailing the market(s), the value proposition and brands, customers and channels of communication) and How it will win (clearly defined operating model).

— **Business structure, operations and finance** – Are the appropriate processes and structures in place to provide accurate and timely financial and management information? Is the structure aligned with the strategy? Are key performance indicators and incentives in place which are aligned with the strategy?

— **Human resources** – Talent management is critical and therefore the business needs to ensure that they have the right people doing the right jobs. It needs to ensure that the processes for recruitment and retention of the right people are in place, succession plans for key positions are established and training programs are setup to improve internal staff skills.

— **Technology** – Technology is critical in any business including ongoing investment and maintenance. Are measures in place to deal with cyber events or disaster recovery should a significant event occur?

— **Governance** – The appropriate level of governance is important to ensure that the business continues into the future, especially with the increasing compliance with regulatory, tax and financial laws. Are the key strategic and operational business risks being reviewed on an annual basis? Does the business have appropriate insurance coverage? Does the business have the appropriate skills and experience as part of their Board of Directors or management team to help achieve the growth objectives?

These key considerations are the drivers considered in KPMG Enterprises's online 'Growth Readiness Index' diagnostic.

The diagnostic provides you with a platform to gain further insight into the capabilities needed to support your company's growth plans, and to compare your capabilities to those at a similar stage in their business.

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