



# Estate planning and forward thinking

April 2020

In times of unprecedented global change due to the COVID-19 pandemic, it was enlightening to read [Daphne Ewing-Chow's article published in Forbes on 29 March 2020](#). At a time when news focuses on the global spread and increasing mortality rate as country upon country tackle this virus, it is uplifting to read our local 'good news' story about the Cayman Islands' response to the pandemic to date and praise for our government and its forward thinking initiatives aimed at keeping us all safe.

Cayman's Government, as with all other Governments battling this virus, aims to protect its citizens. From an individual perspective, the worst-case scenario brings into focus the extent of one's current estate planning and how we can best tackle any unforeseen future events. From an estate planning perspective, what follows are our **key considerations** to ensure your affairs are in good order and the value of your estate is not subject to adverse tax consequences and other fees and charges:

## 1. Prepare or update your Will

Particularly if you have experienced a significant change of circumstance whether that is marriage, divorce or the birth of children. Whilst COVID-19 and social distancing or isolation measures may cause practical limitations to witnessing your new Will, we can advise on methods which can be implemented to enable your wishes to be documented and for your assets to pass to your nominated beneficiaries in accordance with that Will. To ensure that the value of your estate is maximised, adverse taxes are avoided and your chosen beneficiaries are provided for, it is best to make sure your wishes are properly documented.

## 2. Directorships

Structure your affairs so that you can avoid, where possible, the lengthy and comparatively expensive probate process of dealing with assets on death. This is required for the transfer of shares in a company if you are also the sole director, and might be achieved, for example, by appointing a family member as a second director to your company to ensure the continuity of its management in the event you become incapacitated or pass away.

## 3. Restructuring

For many business owners, this will be a difficult time in terms of maintaining normal working practices and cash flow might be more limited than in recent times. We have seen a number of clients restructuring their portfolios to protect their assets and limit liability, where possible. At this stage, it is prudent to consider safeguarding your assets by putting in place an appropriate structure – this is wholly dependent on the nature of your assets and any applicable tax consequences on any transfer - and the preparation of an asset schedule will assist us in determining what is the appropriate vehicle for you. The use of trusts for the protection of your assets upon your death, for example, is also a vital consideration and Cayman's legislative framework permits a wide range of powers to be

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reserved to settlors without affecting its validity. We are happy to discuss restructuring with you.

#### 4. Timing of asset transfers

The timing of the transfer of certain assets, whether into a structure or to an individual could be a crucially important planning tool. Where asset values are depressed due to the global downturn in the economy, this might present an opportunity to make a transfer which mitigates the current exposure to inheritance tax or capital gains tax.

#### 5. Explaining the rationale for your wishes

Take the opportunity to speak with any beneficiaries of your Will (including any spouse, cohabitant, children or people that are financially dependent on you) to explain the rationale for your wishes, which might assist in limiting any challenge to the terms of your Will upon your death.

#### 6. Consideration of minors

If you have minor children, consideration needs to be given as to the appointment of a legal guardian and how you wish for these children to be provided for, including their maintenance and education. The selection of guardians and the conditions for financial provision for the children would normally be contained in a trust within a Will, but a separate consideration of the best interests of minors needs to be undertaken.

#### 7. Wealth accumulation measures

One of the other effects of the virus has been seen in the financial markets where significant value has been wiped off stock market investments. This might therefore provide an opportunity to maximise your estate by purchasing stocks which could increase in value following the pandemic. As we all know, however, the values of such investments can go down as well as up which is why it would be important to consult with investment professionals to assist with this process. We continually work with such advisers and can make recommendations to you.

#### 8. Life insurance protection

In light of the current uncertain financial climate, it would also be advisable to ensure that you are covered for unforeseen eventualities and therefore a review of your current insurance coverage (including the availability of critical illness coverage) should be undertaken. Again we work with local insurers on a regular basis and can assist with making recommendations as to who to speak to.

#### 9. Stay connected

Stay connected for good health and well being. Importantly, regular communication with family members is likely to make it more difficult for anyone to challenge your Will on grounds that it does not reflect your documented wishes.

*If you require any assistance with estate planning measures to ensure you are best placed to manage your affairs and deal with future unforeseen events, please do not hesitate to contact us.*

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