

THE CUSTODIAN

ESTATE PLANNING AND WEALTH SUCCESSION NEWSLETTER

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By Lee Chiwi

Chairman

Estate Planning Practitioners Limited (EPPL)
AEPP®

Chairman's address

This issue is well packed with plenty to read. I hope like many of our readers who have given feedback, you will find the Custodian Newsletters a welcomed and useful resource!

In this edition, we feature an interview with British and Malayan Holdings (BMH) Group CEO David Koay in which he provides his insights on why BMH had bought a stake in PreceptsGroup. BMH sees Singapore as a premier financial centre in Asia for high net-worth individuals seeking both wealth management and legacy planning needs. Singapore offers a robust and clear regulatory, tax and legal framework and there will be great opportunities for trust setups and family offices.

Expert opinions on key estate planning issues

Also in this edition, we have gathered many experts to offer their views on areas that are of interest to estate planners including:

- Refinements to Sections 130 and 13U for family offices in Singapore as outlined in the MAS's latest updated guidelines on the minimum assets under management, requirements for investment professionals, business spending and local investment obligations.
- An assessment of why "99-1" arrangements in Singapore's residential property market have come under the scrutiny of the Inland Revenue Authority of Singapore (IRAS). In terms of 99-1 arrangements in Singapore, we offer an expert's view that IRAS may take the position that there is stamp duty avoidance with such arrangements.
- Understanding the intricacies of the US tax system for persons and beneficiaries who are deemed as US persons and the taxation consequences and reporting requirements.

- Coverage on the Indonesian Forex Tax on investments in foreign currencies, a tax that is not often obvious to Indonesian taxpayers.
- Insights on Life Insurance solutions for high net-worth individuals in Asia such as the Private Placement Life insurance and the Variable Universal Life.

EPPLHK

It held its first Speaker Luncheon for AEPP® designees in Hong Kong. This activity is to allow AEPP® designees to hear and engage with estate planning, trust and legal practitioners. EPPLHK hopes the Speaker Luncheon in May was just the beginning of more opportunities in the future to deepen the level of interaction with AEPP® designees over seminars, webinars, workshops, and networking events.

There is great optimism and interest by financial intermediaries for taking up the AEPP designation and the next public AEPP class intake will be in August. Going forward, it is expected to be conducted via a hybrid of online and face-to-face sessions. Online learning is conducted through the e-learning platform of the Institute of Financial Planners of Hong Kong (IFPHK), which is EPPLHK's exclusive education provider partner for the AEPP® Accredited Certification Program in Hong Kong.

We hope you gain some new insights to help in your estate planning business from this edition of The Custodian, and we wish you all the best for the rest of 2023.



INTERVIEW WITH DAVID KOAY ON ACQUISITION AND WEALTH SUCCESSION SPACE

BMH sees synergies with PreceptsGroup in Wills services and Standby Trusts

In April 2023, Singapore-listed British and Malayan Holdings (BMH) completed its acquisition of a 35% stake in PreceptsGroup International. BMH Group CEO, Mr David Koay, tells The Custodian about his vision for the partnership between the two companies, and shares his views on the wealth succession space in Singapore

What was the motivation for the acquisition?

BMH group is the oldest listed licensed Trustee services group in Singapore. BMH's aspiration has been to grow its operations in the legacy and wealth planning industry in Singapore. PreceptsGroup is attractive to us as part of our inorganic growth. There is little overlap between existing BMH and PreceptGroup operations, apart from the Trust services that each group provides.

What synergies do the partnership with PreceptsGroup unlock for BMH?

The BMH group, via BMT (British and Malayan Trustees Limited), has been dealing with Private and Corporate Trust services for almost a century. We see potential synergies to partner and grow with PreceptsGroup, especially in the areas of Wills services and Standby Trusts, widening our existing client base beyond just high net-worth individuals (HNWIs) and family estates. In addition, PreceptsGroup is heavily involved in the continuing professional development of Estate Planning Practitioners in this region via its Academy. PreceptsGroup also provides corporate secretarial services which is a plus when high net-worth individuals want to incorporate new entities for Trust setups and family offices.

Which market segments are BMT serving currently?

BMT currently only provides Trust setups and administration in the Singapore jurisdiction. For Private Trusts, we deal with beneficiaries located across the globe. As a Licensed Trustee, we act as landlords to over 100 properties in Singapore, taking care of all rental and tenancy matters. On the Corporate Trust side, we are Trustees to various REITs, and clubs and charities. We also provide solutions for Business and Pre-IPO Trust set-ups for business owners and shareholders. This includes Custodial and Escrow account services.

What do you anticipate in collaborations and business referrals moving forward?

We see potential opportunities in the areas of mutual cross-referrals and joint marketing efforts, as well as potential synergies in both revenues and operational costs.

Bespoke solutions for wealth succession

What are your views on the wealth succession space in Singapore?

We believe that Singapore is a premier financial centre in Asia for high net-worth individuals seeking both wealth management and legacy planning needs. It has emerged as the "new Switzerland" for wealth management, as Asia's wealth continues to grow. Singapore offers a robust and clear regulatory, tax and legal framework. We see increasing interest for new Trust set-ups in Singapore. This includes re-domiciling existing Trusts from Europe.

BIO: DAVID KOAY



David has over 35 years of diversified & extensive banking & corporate finance experience.

He held several senior positions in various international Banks, both in Private and Corporate banking roles.

David also has the unique experience of working on the client side as Treasurer to one of Asia's Forbes UHNWI/ Entrepreneur in building start up companies to significant market players. He understands client's needs & perspective.

Worked in various regions in SEA, Australia, Middle East.

Current Position: Group CEO of British & Malayan Holdings Limited, the oldest listed Trust services company in Singapore.

David has been a trainer with Wealth Management Institute (WMI) since 2013 and he chairs the panel for Cross Banking Curriculum.

David holds an MBA from RMIT and Bachelor in Economics & Accounting from La Trobe University.

How do you see the positioning of independent Trust and estate planning companies in this space?

There is a growing preference from high net-worth individuals to use independent Trustees that are not owned by banks or PE firms. Clients prefer to have their Trustee separate from the bank that holds or manages their portfolios. Clients are concerned about the longevity and continuance of their Trustee to manage their estate distribution of income/assets over time to their chosen beneficiaries.

How do you capture market share in this growing trend of wealth transfer and succession planning?

To differentiate ourselves from the competition, we need to provide bespoke solutions for each client, versus standard "cookie-cutter" templates. A holistic approach is critical and requires:

- Walking clients through the various permutations or potential issues that a family could face post death with regards to asset and income redistribution.
- Identifying and designing an appropriate structure to manage the client's wishes for legacy and estate planning for wealth distribution.
- An open architecture where we as Trustees can recommend to clients, other advisors like lawyers, tax specialists, asset managers and private bankers to independently work on their Trust setups.
- Trustee's heritage, knowledge, and track record for (a) and (b) and (c) to deliver value-add confidence to clients.

Practical Considerations Of The Section 130 And 13U Tax Exemption Schemes With Effect From 5 July 2023 (For Family Office Structures)

Shaun Zheng

Director, Tax
CLA Global TS Tax Services Pte. Ltd.



The refinements to the conditions under Section 130 (i.e. resident fund tax exemption scheme) and Section 13U (i.e. enhanced-tier fund tax exemption scheme) as introduced by the Monetary Authority of Singapore ("MAS") for funds managed or advised by certain family offices have brought about new challenges. Broadly, the refinements as outlined in the MAS' refreshed guidelines (first communicated to the industry on 11 April 2022, followed by another update on 1 December 2022 and with the most recent one on 5 July 2023) have impacted the minimum asset under management ("AUM"), investment professionals' requirements, business spending and local investment obligations.

While these conditions may appear stringent at first glance (read - higher barriers to entry), they reflect Singapore's growing prominence as a preferred destination for family offices. As the asset management industry matures and reaches an inflection point, the government has refined these conditions to align with broader policy objectives - stimulating the local economy, creating more job opportunities and fostering a higher level of professionalism within the industry. Set out as follows are some of the practical issues to keep a look out for:-

i. Minimum AUM under the Section 130

With effect from 5 July 2023, the fund must have a minimum fund size of S\$20million at the point of application. This appears to be a move to "sieve out the boys from the men" - to deter families who are using Singapore merely as a convenient pitstop to store a bit part of their private wealth and not committed to sink roots in Singapore and / or serious in

contributing more or grow their AUM here. It should also be noted that private banks seem to have leveraged on this minimum AUM requirement and appear to be more selective in accepting new private banking relationships unless a certain level of AUM can be brought in (e.g. beginning from US\$5million and above). In gist, if the clients are unable to commit to a S\$20million AUM, it is a showstopper at the get-go for the Section 130 scheme (not to mention the Section 13U scheme, which requires a higher level of AUM, starting from S\$50million).

ii. Operating other businesses under the family office

The MAS has indicated that the family office should serve the needs of the single family only and that it should not provide any products or services to any third party. It is commonly understood, amongst others, that the family office should not be advising other third parties in relation to investments that are not owned by the family office and / or be taking in other third parties' monies for the purpose of investing on behalf of these third parties.

However, oftentimes, there are cases where the principals and / or the employees of the family offices have skillsets that span beyond the asset / investment management realm and are able to offer services (e.g. IT consultancy, management consultancy, philanthropy advisory, etc.) through the same family office entity to outside parties in return for a fee, which ultimately benefits and supplement the management fee income that the family offices usually derive from managing their own funds.

At the point of writing, the writers are still unclear as to whether the above scenario would flout any conditions under the Section 130/U schemes and are awaiting clarifications from the MAS. On a prudent basis, applicants should not attempt to commit to any other business endeavours apart from managing / advising its own funds.

iii. Investment professionals

There is greater emphasis on the academic background and professional experience of the investment professionals in recent times. This can be observed in recent applications where the proposed investment professionals of the family office applicants are being rejected on the basis that they do not hold the appropriate academic qualifications and do not possess relevant professional investment management experience - the MAS has made it clear that investments made in one's personal capacity do not count as professional experience.

Also, the MAS appears to have certain expectations of how these investment professionals should look like - academically and professionally (think finance / accounting degrees and portfolio managerial / research analyst and trader type roles). Failing which, the family offices should expect to assert a good amount of time and effort to justify why a particular individual qualifies as an "investment professional". Although one might find the level of scrutiny these days somewhat pedantic in this respect, it is necessary so as to spur further professionalism required in the industry and also as a means to get these family offices to look deeper into our local talent pool to seek out suitable candidates that could fit the bill and to fill the minimum investment professionals' conditions under the said schemes.

iv. Review process and timeframe

Generally, the review and approval process for the fund tax exemption schemes takes between 6 to 12 months. However, this is slowly turning out to be a statement that has to be taken with a pinch of salt. It has been observed in recent times (even with funds that are managed by licensed / registered fund managers) that the entire process could stretch longer than the aforesaid timeframe. This is not unexpected due to the popularity of the tax exemption schemes and the additional time required to vet through all of these applications to ensure integrity and that the country is only granting these schemes to deserving applicants. This prolonged wait time can pose significant challenges for structures with immediate investment plans, potentially hindering their ability to execute timely transactions and capitalise on market opportunities. In such cases, family offices may consider seeking permission from the MAS to hold transferred-in assets / acquire investments before enjoying the fund tax exemption scheme. This may be achieved by presenting the relevant bona-fide commercial justifications. Based on experience, MAS has shown flexibility in granting waivers or permissions on a case-by-case basis.

For structures without immediate investment plans, family offices can explore exceptions provided by the MAS. Under these exceptions, the MAS is prepared to accept and exclude taxable income arising from activities like warehousing of investments (i.e. the fund acquiring investments at an initial stage of the fund's existence, prior to closing the fund), setting up bank accounts in anticipation of commencing operation and placement of monies in deposits or money market instruments on a temporary basis before a fund tax exemption scheme application is made.

The above are often taken for granted and seemingly skimmed through without much thought until it becomes a stumbling block for the clients. Family offices should be well advised that the MAS now undertakes a greater deal of scrutiny of all family office structure applications. By anticipating these (unknowing) complications, practitioners can manage clients' expectations upfront and move more confidently in helping family offices successfully navigate the fund tax exemption scheme application process and achieving the desired outcomes.

U.S. Tax Experts Bring Some Clarity To The U.S. Taxation System

Josh Maxwell and Jared Garfield of Hone Maxwell LLP highlight two key aspects of the U.S. taxation system, namely transfer tax and income tax

The Estate Planning and Wealth Succession Asia Forum 2023, held in Precepts Group's Singapore office in April as well as on Zoom, featured U.S. tax experts Josh Maxwell and Jared Garfield from Hone Maxwell LLP, which is a U.S.-based law firm with offices in San Diego and San Francisco. This event focused on the intricate workings of the U.S. tax system, which can be categorised into two distinct sections:

- Taxation of U.S. persons
- Taxation of non-U.S. persons

Understanding these rules is vital for individuals with U.S. immigration status or business ties, as they face complex reporting requirements and taxation considerations. The forum also shed light on planning strategies for U.S. assets held by foreigners or U.S. beneficiaries of foreign trusts, gifts, and estates.

Key focus areas

During the seminar, Maxwell and Garfield provided a comprehensive overview of inbound and outbound taxation for both income and transfer tax purposes. They also delved into the criteria for determining U.S. personhood in relation to income tax and estate/gift tax, as the rules differ for each.

In addition, the forum offered valuable insights into international enforcement under the Foreign Account Tax Compliance Act (FATCA) framework, amnesty programmes, and practical tips for navigating U.S. taxes effectively.

The speakers highlighted two significant aspects of U.S. taxation: Transfer tax (estate and gift) and income tax. In relation to these areas, they provided in-depth explanations on the following key topics:

1. Who is a U.S. Person?

Attendees gained a clear understanding of the criteria used to determine U.S. personhood for income and transfer tax purposes. The speakers emphasised the importance of recognising the impact of U.S. status on income tax and transfer tax planning, as the rules governing each can present unique planning opportunities.

2. Tax Basics

The forum covered essential aspects of U.S. taxation, including transfer tax (estate and gift) and income tax. Attendees gained insights into how transfer tax affects inheritances and gifts, with a focus on the differences between U.S. situs assets and non-U.S. situs assets.

Importantly, the speakers clarified that there are no special family exemptions for transfer tax, except for spouses. Attendees were guided through the requirements, shared strategies, common structures, and planning considerations for U.S. assets owned through foreign trusts or businesses.

3. American vs Non-American Tax

Maxwell and Garfield provided a comprehensive analysis of U.S. income tax for Americans, encompassing businesses formed in the U.S., U.S. citizens, U.S. resident aliens (green card holders), and individuals meeting substantial presence



Josh Maxwell



Jared Garfield

criteria. They explored the impact of worldwide income on U.S. persons, regardless of their time spent outside the country. The speakers also addressed how double tax avoidance affects key aspects such as foreign earned income exclusion, foreign tax credits, and tax treaties.

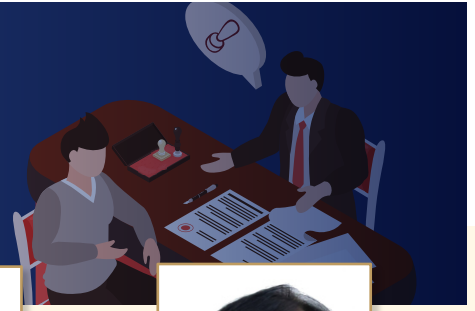
U.S. persons' reporting obligations

The seminar emphasised the importance of understanding U.S. persons' reporting obligations, highlighting the following factors that require attention:

- ▶ **Foreign Business Ownership:** Attendees were made aware of the reporting obligations associated with owning businesses abroad.
- ▶ **Transactions with Foreign Trusts:** The speakers stressed the importance of reporting transactions involving foreign trusts, including gifts, inheritances, and other transfers.
- ▶ **Foreign Bank Accounts:** Compliance requirements for U.S. persons with foreign bank accounts were discussed, emphasising the need for accurate reporting.
- ▶ **Foreign Assets:** Individuals with foreign assets were reminded of their obligations to report them to the U.S. tax authorities.
- ▶ **Foreign Inheritance/Gift:** The speakers emphasised the necessity of reporting foreign inheritances and gifts to ensure compliance with U.S. tax regulations.

Overall, the Estate Planning and Wealth Succession Asia Forum 2023 provided valuable insights into the complexities of U.S. taxation, offering attendees a deeper understanding of the rules and considerations relating to income tax and transfer tax. With the guidance of tax experts like Maxwell and Garfield, individuals can navigate the U.S. tax system more effectively, ensuring compliance and making informed decisions for their financial future.

HIGHLIGHTS OF THE ABSD SEMINAR



At a seminar on 7th June 2023, Lee Chiwi, CEO of PreceptsGroup International, and Ku Swee Yong, Key Executive Officer of International Property Advisor Private Limited, spoke on the Additional Buyer's Stamp Duty (ABSD) Measures & Impact on Property Wealth Succession.

With yet another round of ABSD changes in April 2023 it is crucial for property owners, investors, and estate planners to understand the implications of these changes. Foreigners looking to purchase residential property in Singapore now face higher stamp duties, which have doubled to 60%. Singapore citizens purchasing their first property will experience no change in stamp duties. However, the rates have significantly increased for those buying their second and subsequent properties, with a rate of 20% for the second property and 30% for the third and subsequent properties. Permanent residents also face higher rates of 30% and 35% for their second and third property purchases, respectively. The ABSD measures also affect property purchases made through companies or trusts. The stamp duty rate for such acquisitions has increased from 35% to 65%, closing potential loopholes.

The speakers discussed the impact on the market trends, the purchase, holding and succession of Singapore residential properties covering various topics such as:

1. How existing owners should deal with the succession of their valuable properties.
2. The need to avoid inherited properties being a stumble for their beneficiaries.
3. For clients owning multi-million-dollar properties, the planning strategies bearing in mind a much higher property tax regime today.
4. For foreigners, such as the Malaysian, Indonesian and Chinese National client with assets in Singapore, the opportunities to set up trusts for succession planning.
5. Apart from ABSD, the other tax implications, such as seller's stamp duty and property taxes.



Lee Chiwi
Chairman
Estate Planning Practitioners Limited
AEPP®



Ku Swee Yong
CEO
International Property Adviser Pte Ltd

Property taxes, calculated based on the annual value, have seen a significant increase, affecting property owners' overall costs and potential returns. This will be a factor whether the property concerned should be liquidated on death rather than being transferred to the next generation.

The relationship between property prices, the rental market, and the ABSD measures should be assessed. It is possible that the higher property taxes resulting from the measures could prompt some property owners to rent out their vacant units to offset the increased costs. As a result, the rental market could experience an uptick in supply, leading to changes in rental prices.

The ABSD measures may impact first-time buyers and those seeking to upgrade their properties. While property agents may encourage urgency in purchasing due to the perceived market conditions, a comprehensive analysis of costs and potential returns should be conducted. Affordability, interest rates, and future property appreciation must be considered when making decisions.

With the ABSD hikes, investors might consider diversifying their real estate portfolios in other countries within the region. Here were some insights on potential investment opportunities:

Malaysia 	Indonesia 	Thailand 	North Asia (Japan, China, Hong Kong) 
<p>Despite some political uncertainties, Malaysia remains an attractive option, especially for those with relatives or connections in the country.</p> <p>Considerations should be made regarding property ownership regulations and tax implications.</p>	<p>Investing in Indonesian properties requires thorough research, as regulations around foreign ownership can be complex.</p> <p>Collaborating with trusted local contacts or family members might mitigate risks and provide better investment prospects.</p>	<p>Bangkok's large consumer market and favorable interest rates make it an appealing option.</p> <p>However, political stability should be monitored to ensure a secure investment environment.</p>	<p>Japan, with its low stamp duties and attractive bank lending rates, offers potential investment opportunities.</p> <p>China and Hong Kong require further exploration, considering their evolving policies and regulations.</p>

IRAS in Scrutinising 99-1 Residential Property Transactions For ABSD Avoidance

99-1 arrangements in Singapore's residential property market under IRAS scrutiny

Liu Hern Kuan of Insights Law LLC forensically examines the so-called 99-1 arrangements in the Singapore residential property market and explains why it has come to the attention of the IRAS

With new private home prices rising by 3.3% in the first quarter of 2023, according to data from the Urban Redevelopment Authority (URA), the Singapore government has increased the rates for Additional Buyers' Stamp Duty (ABSD).

The ABSD rate for foreigners buying any residential property will be increased from 30% to 60%. As for Singapore citizens buying their second residential property, the ABSD rate will be raised from 17% to 20%, and from 25% to 30% for those buying their third and subsequent property.

Coupled with the aggressive implementation of higher ABSD rates, the Inland Revenue Authority of Singapore (IRAS) has announced that it will be offering a reward of up to S\$100,000 to whistleblowers who call out private property buyers who use the so-called "99-1", or similar arrangements, to evade or reduce ABSD on their purchase. What is a 99-1 arrangement and how does it work?

The mechanics of 99-1 arrangements

Under current ABSD rules, when a residential property is acquired jointly, ABSD will be payable based on the property of the co-owner with the largest property count, with ABSD based on the entire interest acquired by the co-owners. For example, if there are two Singapore-citizen co-owners, one of whom owns 1% of the property and the other 99%, and the co-owner with 1% of the property already owns two residential properties, then ABSD will be chargeable at the rate of 30% on the entire purchase price of the residential property.

99-1 arrangements typically take place in the following manner:

a. A first-time buyer (first buyer) buys a residential property in his/her sole name, typically from a housing developer. The first buyer is typically a Singapore citizen who does not own a residential property.

Liu Hern Kuan

Liu Hern Kuan is the Director, Head of Tax, at Insights Law LLC in Singapore. He is a leading lawyer in tax-related matters in Singapore with substantial experience in both the public and private sectors.



- b. The first buyer needs to finance the purchase of the residential property with a bank loan. However, the banks do not regard the first buyer to have sufficient financial resources to do so. Therefore, the first buyer conveys 1% of his interest in the property to another buyer (second buyer), so that the property ownership is held in a ratio of 99:1 in favour of the first buyer and second buyer, respectively. The second buyer is creditworthy, and the banks will extend credit to the first buyer and second buyer as co-borrowers to enable the purchase of the residential property as the second buyer is regarded to have sufficient means to service the loan. However, the second buyer is not a first-time homeowner, and if he/she were to buy a residential property, ABSD would be chargeable.
- c. The second buyer pays the required ABSD on 1% of the purchase price of the property. The first buyer will generally be required to pay Seller's Stamp Duty (SSD), if the Second Conveyance is done within three years from the date of acquiring the property. The amounts payable for ABSD and SSD are relatively small as only 1% of the purchase price of the property is chargeable.
- d. The loan would then be taken out in the names of both the first buyer and the second buyer. The first buyer holds a 99% interest in the property, while the second buyer holds the remaining 1%.

IRAS cautious about 99-1 arrangements

With 99-1 arrangements, IRAS may take the position that there is stamp duty avoidance. It could take the view that had the first buyer and second buyer both bought the property at the same time (see step (a) above), then the first buyer and second buyer would have had to pay ABSD on the entire price of the property, rather than on 1% of the purchase price of the property when it was acquired by the second buyer.

Where there is stamp duty avoidance, the Commissioner of Stamp Duties may make any adjustment that is considered appropriate, including the imposition of liability to duty to counteract the savings sought to be achieved by the taxpayer. An additional 50% surcharge may also be applied on the duty avoided, in line with Section 33B (1) of the Stamp Duties Act, for instruments executed on or after 7 December 2020.

Nonetheless, not every case of a 99-1 arrangement amounts to stamp duty avoidance. For instance, it may be the case that the first buyer only finds out that he is unable to obtain the loan under his name after purchasing the property and ropes in the second buyer solely for the purpose of obtaining a loan. Further, it is very natural for Asian parents, including Singaporean parents, to want to help their children to acquire residential property of their own when they wish to settle down.

Such arrangements typically involve more financially able family members buying a share in a property owned by another to assist in paying off the outstanding mortgage loan (see *Su Emmanuel v Emmanuel Priya Ethel Anne* and another [2016] 3 SLR 1222). It could be argued that the purpose of the 99-1 arrangement was not to avoid stamp duty, but to enable the parent to assist the child to acquire the property in a way that is tax efficient.

Case-by-case basis

Regardless, the facts and circumstances of each 99-1 arrangement case will be determinative. Some factors that may weigh against, or in favour of a finding of stamp duty avoidance, could include the following:

- e. Financing of the loan – If the first buyer is able show that he/she is able to service the loan in the long run, it is more likely to mitigate in favour of a finding that the property was acquired largely for the first buyer's benefit and that the arrangement was only done with a view to secure the necessary loan required.

- f. Conversely, if the first buyer is unable to demonstrate sufficient financial ability to service the loan in the long run, one may draw the inference that the property is financed in substance, by the second buyer, and that the first buyer's involvement merely facilitates the second buyer's acquisition of the property to avoid ABSD.
- g. Timing of the transactions – If the dates of the first conveyance (of property to the first buyer) and the second conveyance (of the 1% interest from the first buyer to the second buyer) were just days apart, this may weigh in favour of a finding of stamp duty avoidance. On the other hand, if the second conveyance was done much later, this may tell another story, that the 99-1 arrangement may not have been carried out for stamp duty avoidance.
- h. Use of the property – Would the use of the property corroborate or weigh against the representations made?

All in the family

In our experience, 99-1 arrangements usually take place between family members, with details of such an acquisition exchanged verbally in an informal family setting. Anecdotally, 99-1 arrangements have been touted as an accepted means to obtain financing for residential property purchases without heavy ABSD liabilities.

However, with the recent rise in ABSD rates, IRAS has decided to scrutinise such arrangements more carefully. Taxpayers are advised to keep contemporaneous records of any communication that relates to the circumstances of these 99-1 arrangements as they are more likely to be believed compared to statements made when IRAS has started querying.

Taxpayers may also take comfort in Senior Minister of State Chee Hong Tat's announcement in Parliament on 21 April 2023 that it is more likely for taxpayers who voluntarily disclose the circumstances of such acquisitions to be favourably treated by IRAS. This appears to be akin to IRAS's voluntary disclosure programme (VDP) where taxpayers who voluntarily disclose information relating to their tax liabilities may be subject to lower or no penalties that are imposed under the law.

Given that IRAS has, at the time of writing, yet to take a firm position on how it intends to deal with 99-1 arrangements that have attracted its scrutiny, taxpayers who may be involved should come forward as soon as possible before they are subject to IRAS audits, or risk losing the opportunity to avail themselves of this assurance made in Parliament.



Implications Of Indonesia's Forex Tax On Investment In Foreign Currencies

Edwan Khow CFP, CPA, the principal of the Indonesian tax and accounting advisory firm Key Points Consulting Group, provides some answers to key questions relating to the forex tax in Indonesia.

The forex tax in Indonesia applies to profits from foreign exchange trading. In this context, the profit is the difference between the purchase price and selling price of foreign currencies derived from forex transactions. The Indonesian government usually imposes this tax to obtain government revenue from the forex sector and regulate foreign exchange trading activities.

The application of this forex tax has been regulated in Article 4 paragraph 1 letter I of the Income Tax Law Number 36 of 2008. Income tax is imposed on every income in any name and in any form, one of which is the profit on foreign exchange differences based on the principle of source and principle of domicile:

The forex tax in Indonesia applies to profits from foreign exchange trading. In this context, the profit is the difference between the purchase price and selling price of foreign currencies derived from forex transactions. The Indonesian government usually imposes this tax to obtain government revenue from the forex sector and regulate foreign exchange trading activities.

- The source principle applies to every tax subject - foreign or domestic - who earns income sourced from Indonesia. They will be subjected to income tax by the Indonesian government.
- The domicile principle applies to every tax subject who meets the requirements of domicile in Indonesia. Income earned from income sources in Indonesia and outside Indonesia is subject to income tax by the Indonesian government and by the provisions of tax legislation in Indonesia.

Who will be the object of forex tax?

Tax rates for domestic individual taxpayers due to differences in foreign exchange rates or forex trading follow the provisions in the General Income Tax rate, namely in Article 17 of the Income Tax Law Number 36 of 2008. This was amended by the Job Creation Law and the Law on Harmonization of Tax Regulations (HPP Law). Meanwhile, the forex tax rate imposed on domestic corporate taxpayers and permanent establishments is 25%.



Edwan Khow

CFP, CPA

Principal, Key Points Consulting Group

What about assets located abroad?

Foreign exchange is a global market for currency trading. It is decentralised, that is, not fixed to any physical location. According to the Income Tax Law, all income received in any form by Indonesian citizens residing within the country or abroad is subject to tax on the value of the income received.

Based on the law, traders must also pay taxes on the profits they earn from forex trading. Forex traders that trade through brokers abroad must still pay taxes in Indonesia by applicable regulations. The tax to be paid is the final income tax (PPH) of 20%. However, if the trader also has other income earned in Indonesia, the tax to be paid will differ according to the applicable tax rate.

What are the forex tax tariffs?

Lapisan Tarif	UU PPH		UU HPP	
	Rentang Penghasilan	Tarif	Rentang Penghasilan	Tarif
I	0 - Rp 50 Juta	5%	0 - Rp 60 Juta	5%
II	> Rp 50 Juta - 250 Juta	15%	> Rp 60 Juta - 250 Juta	15%
III	> Rp 250 Juta - 500 Juta	25%	> Rp 250 Juta - 500 Juta	25%
IV	> Rp 500 Juta	30%	> Rp 500 Juta - 5 Miliar	30%
V			> Rp 5 Miliar	35%

Tax rates for domestic individual taxpayers due to differences in foreign exchange rates or forex trading follow the provisions in the General Income Tax rate, namely in Article 17 of the Income Tax Law Number 36 of 2008 (UU PPH) which was amended by the Job Creation Law and the Law on Harmonization of Tax Regulations (UU HPP). The two laws have different layers of rates (lapisan tarif) and income ranges (rentang penghasilan) in the Indonesian rupiah as shown in the table.

Pandemic Has Prompted More Legacy Planning Conversations For HNWI's

Dr Ben Fok
Managing Director
Grandtag Financial Consultancy



The demand for legacy planning solutions from high net-worth individuals is rising in the wake of the pandemic with a priority on wealth preservation, succession, and transition, writes Dr Ben Fok, Managing Director of Grandtag Financial Consultancy in Singapore

The Covid-19 pandemic has changed how high net-worth individuals (HNWIs) perceive the need for legacy planning. It forced many to stay home, bringing families closer, and this period enabled them to spend more time on such matters. As a result, there has been a shift, with HNWIs now deepening their involvement in wealth and legacy planning.

The global economy was hit by multiple shocks. Economies suffered steeper-than-expected slowdowns, combined with a higher cost of living, rising interest rates, and escalating geopolitical concerns. The weak macroeconomic conditions prompted a significant decline in global financial markets. According to the Capgemini Research Institute's World Wealth Report 2023, total wealth and population of HNWIs around the world dropped by 3.6% and 3.3%, respectively, compared to the previous year.

Need for professional legacy planning

The turbulence has had a negative impact on HNWIs' wealth and businesses. We expect this has led to a more proactive approach in legacy planning, with families prioritising wealth preservation, succession, and transition. Furthermore, driven by demographic changes, more HNW patriarchs are getting their spouses and children involved in conversations about legacy planning, especially so for the older generations.

The last three years since the pandemic started have been a wake-up call, making people aware of their vulnerability and ensuring their legacy planning is current. It has changed the mindset of the HNWIs to actively plan for wealth accumulation and transition at an earlier age. Legacy planning is now a more common discussion topic amongst HNWIs.

We have also recently observed that many clients in Asia have realised the need for professional legacy planning. Living in an increasingly complex and globalised world, they will need a flexible and adjustable legacy plan. Occasionally, HNWIs must also fine-tune their planning to ensure that it fits the current and future environment. Planning must also be compliant, transparent, and suit the needs of HNWIs. As such, wealth advisers should look at different solutions to facilitate wealth and succession planning in an uncertain environment.

Life insurance solutions

In legacy planning, it is paramount to understand that life insurance solutions provide protection and instant liquidity when needed most. If properly structured, it helps to expedite the probate process and transfer the wealth to beneficiaries of different generations.

What is required is a strategy:

1	That has a proven track record, is recognised as a legal framework worldwide (that is civil law and common law), and is highly transferable.
2	The strategy must be seamless across borders and with minor changes, if needed.
3	Finally, there must not be any restructuring, disposal of assets or even removal of structures that are already in place.

As we search for the right tools for legacy planning, life insurance solutions have come into the spotlight as they align with the seismic transition. In addition, life insurance is a necessary tool for liquidity creation and wealth transfer strategies, which is significant when life events are constantly changing - for example, when marriages are celebrated, a newborn is added, divorces occur, people migrate or die, and so forth. Wealth advisers must be on top of such changes and help clients to address their planning and develop structures to adapt to each new situation.

PPLI and VUL

At Grandtag, we firmly believe that life insurance solutions can cope with landmark life events, ensuring well-structured legacy planning is in place. In addition, most of our clients are internationally mobile, with family members and beneficiaries living across the globe.

The life insurance solutions that are mainly used for legacy planning are:

Private Placement Life Insurance (PPLI)
PPLI is an ideal wrapper solution for legacy planning due to its portability and flexibility. Furthermore, it is easy to understand, and the client retains control over his assets. The flexibility gives access to those assets when liquidity needs change, or beneficiaries change over time. They are of considerable interest to HNWIs, especially with the possibility of a reintroduction of inheritance tax in some countries.
Variable Universal Life (VUL)
Another insurance solution relating to legacy planning is VUL, which is also gaining in popularity. VUL is designed to offer policyholders a death benefit with potential cash value growth linked to their choice of underlying investment performance. It provides financial protection for policyholders and, at the same time, allows them to allocate their premiums to various investment options to invest according to their preferences and maximise market opportunities. It can efficiently protect the family, potentially accumulate more money, and reduce taxes.

With PPLI and VUL, when a HNW patriarch passes away, the insurance policy assets can be paid out smoothly and swiftly to the beneficiaries, removing the need to go through a painful probate process that is often challenging and time-consuming. That is the fundamental reason for HNWIs requiring a robust and flexible legacy plan.



Cindy Wong

Director
Estate Planning Practitioners (HK) Limited (EPPLHK)
B.Bus, MBA, AEPP®, STEP Affiliate

Speaker Luncheon For AEPP® Designees Hosted By EPPLHK In May

On 10 May 2023, EPPLHK held its very first speaker luncheon for AEPP® designees in Hong Kong, another milestone for us in our journey in the territory.

It was our great honour and pleasure to have Josh Maxwell, Partner of Hone Maxwell LLP speak at our luncheon, hosted exclusively for AEPP® designees. We were also delighted to have Dennis Lau, chief executive officer of Institute of Financial Planners of Hong Kong (IFPHK) and Richard Grasby, Partner, Private Client & Trusts, Appleby, join us as our special guests for the event.

The enthusiasm of the AEPP® designees to learn from and engage with estate planning, trust and legal practitioners fueled a vigorous exchange in the cosy setting of the Riedel Room in the JW Marriott Hotel in the Admiralty district of downtown Hong Kong, bringing the private event to a successful conclusion.

Encouraging growth in numbers

In offering the AEPP® Accredited Certification Program, EPPLHK aims to cultivate talent in legacy planning, enhance

the competencies of financial professionals as they play their respective roles in the ecosystem to ultimately create robust and comprehensive estate planning solutions for their clients.

Since the launch of the AEPP® Accredited Certification Program in Hong Kong in December 2022 with an inaugural cohort of 30, interest and participation in the program continue to see encouraging growth, with a total of 170 participants completing the program by the end of the first quarter of 2023.

While the mode of learning is mainly virtual at this point, the next public class intake in August 2023 is expected to be a hybrid of online and face-to-face sessions. Online learning is conducted through the e-learning platform of IFPHK which is EPPLHK's exclusive education provider partner for the AEPP® Accredited Certification Program in Hong Kong.

EPPLHK hopes this Speaker Luncheon is just the beginning of more opportunities in the future to deepen the level of interaction with AEPP® designees over seminars, webinars, workshops, and networking events.

Probate eService In Singapore Makes The Probate Process Simpler And Faster



Lee Kuan Choon
Associate, Estate Management
AEPP®

How a Trust firm can help in the probate process

While the Probate eService provides great benefits, it also comes with its own limitations. It cannot be assumed that all the eligibility requirements for the use of Probate eService laid out in the above-mentioned website, many people do not fall into these categories. Moreover, the use of Probate eService is only applicable in the case where one sole executor

The Probate eService is an online platform provided by the Singapore judiciary to simplify and digitise the probate application process. It allows individuals to apply for grants of probate or letters of administration, which authorise the management of a deceased person's estate. The e-Service offers convenience, efficiency, cost savings, and timely updates, thus reducing the need for physical visits and paperwork.

To use the Probate eService, the estate's total value must be below S\$2million and must fulfil all requirements stipulated. The individual is required to fulfil additional requirements to be eligible to use the Probate eService. The eligible individual also needs to provide details about the deceased and prepare specific documents, including the death certificate, original Will, and lists of assets and liabilities.

The physical original Will must be presented at the Probate Registry counter after submitting the application online. It is important to consult a qualified lawyer if the eligibility requirements for the use of Probate eService are not met or in the case for document errors. For further details, refer to the website via this link:



<https://www.judiciary.gov.sg/services/e-platforms/probate-eservice>

is appointed; it is not advisable to appoint only one executor unless they are the sole beneficiary named in the Will. Therefore, it is useful to consider using a trust company in the probate process by appointing the trust company as the corporate executor of the Will. To avoid or minimise any family conflict, a trust company like Precepts Trustee Ltd. can play a crucial role in assisting individuals and families in managing the heavy duties and responsibilities associated with being a corporate executor.

Trust companies appointed as corporate executors of the Will can provide professional services with an objective approach, shared responsibility, compliance management, and continuity planning. Engaging the services of trust companies can also help to relieve the burden on individual executors and beneficiaries and ensure effective and efficient estate administration in accordance with legal requirements.

At this point, the Probate eService is not extended to trust companies. It is expected that if a similar eService is made available to the trust companies, it will greatly enhance the overall efficiency of the estate administration process through the use of the probate services by the trust companies.

Be Equipped With Knowledge Be An Expert In Your Craft

At Precepts Academy, we curate a roadmap of estate planning courses for Professionals to equip you with knowledge to be an expert in your craft.



Knowledge Pathway



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Next course dates:

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One-time Designation fee (early bird): \$250 + 8% GST

Net fee (IBF FTS 70%, capped at \$500): \$1,066

Net fee (IBF FTS 30%, capped at \$500): \$1,206

Net fee (Up to your SkillsFuture credits, capped at \$1,000): \$566

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Next course dates:

15-17 Aug 2023	12-14 Sep 2023	17-19 Oct 2023
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Net fee (IBF FTS 70%, capped at \$500): \$580

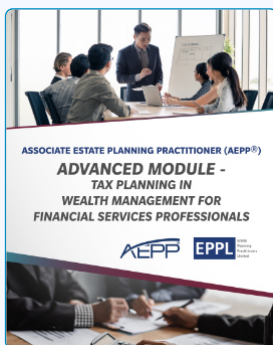
Net fee (IBF FTS 30%, capped at \$500): \$780

Net fee (Up to your SkillsFuture credits, capped at \$1,000): \$80

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Tax Planning In Wealth Management For Financial Services Professionals

29 & 30 Aug 2023, Tue & Wed

Tax planning is a key aspect of wealth management. The focus of this course will be on taxes that impact individuals, companies and trusts in the context of estate and succession planning for private clients.

Net fee (IBF FTS 70%): \$1,170

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Estate Planning: Doing Good For Clients And Society At Large



PreceptsGroup Estate & Succession Practitioner, Lim Jui Seck, joined the firm when it was first established in 2008, shares his journey in Estate Planning

Lim Jui Seck
AEPP®



When did you become a Precepts Estate & Succession Practitioner?

I joined Precepts on 02 May 2008 when it was first established. It was called Rockwills Group Singapore in those days.

What prompted you to consider a career and business as a Precepts Estate & Succession Practitioner? Why did you choose Estate Planning?

I knew Precepts CEO, Mr Lee Chiwi, for years before the launch of the firm in 2008 and have great respect for him. I believe that Estate Planning is important, but it is grossly under-served.

What difference did Precepts make in your journey?

Precepts has helped me to become a professional Estate Planner and enabled me to offer comprehensive Estate Planning solutions to clients. The ongoing training courses and seminars offered by PreceptsGroup and the professional support are significant in my pleasant journey with PreceptsGroup.

What are some of your core beliefs for Estate Planning?

Estate Planning is crucial for everyone, irrespective of age, marital and wealth status. By having a properly structured Estate Plan with the relevant Estate Planning instruments in place, people are assured that their wishes and intentions will be effectively carried out. It also reduces suffering of loved ones and avoid unnecessary financial losses when in circumstances such as loss of mental capacity or when an unexpected demise happens.

What do you think clients should look out for when they are doing their estate planning to distribute their wealth?

They must first establish their intentions and priorities for their loved ones. They can then consider and express their ideas on how their assets or wealth can be best managed to realize these intentions.

We understand you regularly help individuals and families set up Trusts. What is the biggest challenge you face when you talk to them?

They do not have enough understanding of Estate Planning and are not aware of the adverse impact of not

having a Will, LPA and other applicable Estate Planning instruments while they are healthy and alive with sufficient mental capacity. As such, I have a mission to raise public awareness through educational talks and sharing on such topics.

What are some of the principles you use to help them overcome these challenges?

Passion, perseverance, and patience are some traits required to educate and serve people in our society. I try to help them establish their macro intentions and enlighten them on how that can be accomplished with proper structuring of an Integrated Estate Plan. I also help them to understand the impacts and consequences of not having an Integrated Estate Plan.

How long is the normal process to complete a family wealth succession?

The process of Estate Planning for family wealth succession can take a few months or even longer. It depends very much on two factors, namely people and assets: The number and structure of family members and the dynamics of the relationships between them as well as the types of assets and structure of asset holdings, particularly business entities and real properties.

What do you enjoy most about the business?

The challenges in structuring Estate Planning solutions to best meet clients' needs, the satisfaction in gaining their trust and confidence in the services we offer and lastly, knowing that we are doing good for our clients and society at large.

Tell us more about what motivates you in this business?

Proper Estate Planning helps my clients have peace of mind, reduce suffering of their loved ones and avoid unnecessary financial losses when loss of mental capacity or an unexpected demise happens.

What do your colleagues and/or family members think about you being an Estate Planner?

They have respect and admiration for my passion and dedication to serve in this profession.

Contact us for more details:

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