

The BVI's sophisticated company and trust legislation provides an ideal framework for HNWI's who are seeking to protect their assets and ensure that they pass efficiently to the next generation in accordance with their wishes.

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Private wealth structuring in the BVI

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Harneys Fiduciary has a long standing history of advising High Net Worth Individuals (HNWIs) on how to hold their wealth. The type of structure will, to a large extent, depend on the nature of the assets and the client's objectives but typical considerations are asset protection, succession, confidentiality and tax efficiency.

The rise in the number of global HNWIs has seen an increase in demand for lifestyle assets such as yachts, art work, prime real estate and private jets.

Structures range from simple probate avoidance trusts to more bespoke multi-generational family governance structures which combine trading businesses with commercial and private investments in various asset classes. These structures will usually contain holding companies, trusts and private trust companies (**PTCs**).

Yachts and BVI Companies

Typical structures involve the use of a BVI Business company as the immediate owner of the yacht and may also contain trusts (in many different forms). Factors that impinge upon the advice include whether the yacht will be used personally or whether it is to operate commercially as a business.

Using a company to hold the yacht provides the ultimate beneficial owner (**UBO**) with increased certainty and mitigates the risk inherent with owning and operating a vessel personally.

While Harneys establishes and administers stand-alone yacht holding structures, there is often the need to consider wider wealth planning objectives. It is also worth noting that yachts as an asset class have a commonality with other lifestyle assets and while they cannot be used interchangeably, the same benefits translate to other assets.

BVI Trusts

The characteristics that have made the BVI the pre-eminent incorporation jurisdiction are also to be found within the BVI trust legislation. As HNWIs look towards consolidating their assets and planning for the future, the combination of a BVI company as a holding platform together with the asset protection and succession

advantages of a BVI trust provides a powerful structuring proposition for international HNWIs and their families.

BVI trust legislation provides a full array of structuring tools for international HNWIs. VISTA trusts, purpose trusts (charitable and non-charitable) and PTCs may all be used in order to create bespoke trust structures which provide for wealth preservation.

Succession planning and anti-forced heirship

Holding the yacht or other significant assets in a trust structure has considerable benefits in relation to succession planning. Should the yacht be held directly by a company, consideration needs to be given as to who will hold the shares in the BVI Company. If the shares are held by the UBO, then on death, probate will be needed in the BVI. This can be time consuming, expensive, and it is not a private process. Should the company be held by a trust, then the assets fall outside of the UBO's estate, and avoid the need for probate.

In common law jurisdictions, freedom of testamentary disposition has long been taken for granted. This may be contrasted with civil law or Sharia law regimes under which a proportion of the deceased's estate must pass to certain beneficiaries or classes of beneficiaries. BVI trust legislation contains robust anti-forced heirship provisions which provide that heirship rights conferred by foreign law are not recognised with respect to the ownership of trust property. A properly constituted and valid BVI trust will defeat forced heirship claims and allows a UBO to determine how his or her assets should devolve on death.

Wider trust planning

Outside of lifestyle assets, BVI trusts and corporate structures are used for wide ranging purposes. As wealth grows and families become more mobile, the demand for bespoke structuring rises. Control and family participation are often key drivers when establishing new vehicles to hold family wealth and administer businesses.

PTCs have proved extremely popular with HNWIs as they allow for control and multi-generation succession. They are often used to facilitate family business succession and can also provide a bespoke platform for private wealth holding and charitable giving.

Conclusion

The BVI's sophisticated company and trust legislation provides an ideal framework for HNWIs who are seeking to protect their assets and ensure that they pass efficiently to the next generation in accordance with their wishes.

For more information and key contacts please visit harneys.com/expertise/global/private-wealth-and-trusts.

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