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STEP AWARDS

2017

12th Annual STEP PRIVATE CLIENT AWARDS 2017|18 — STEP — Winner — Trust Company of the Year (midsize firm)

2018

13th Annual STEP PRIVATE CLIENT AWARDS 2018|19 — STEP — Winner — Trust Company of the Year (midsize firm)

2019

14th Annual STEP PRIVATE CLIENT Awards — STEP — FINALIST — Trust Company of the Year (midsize firm)

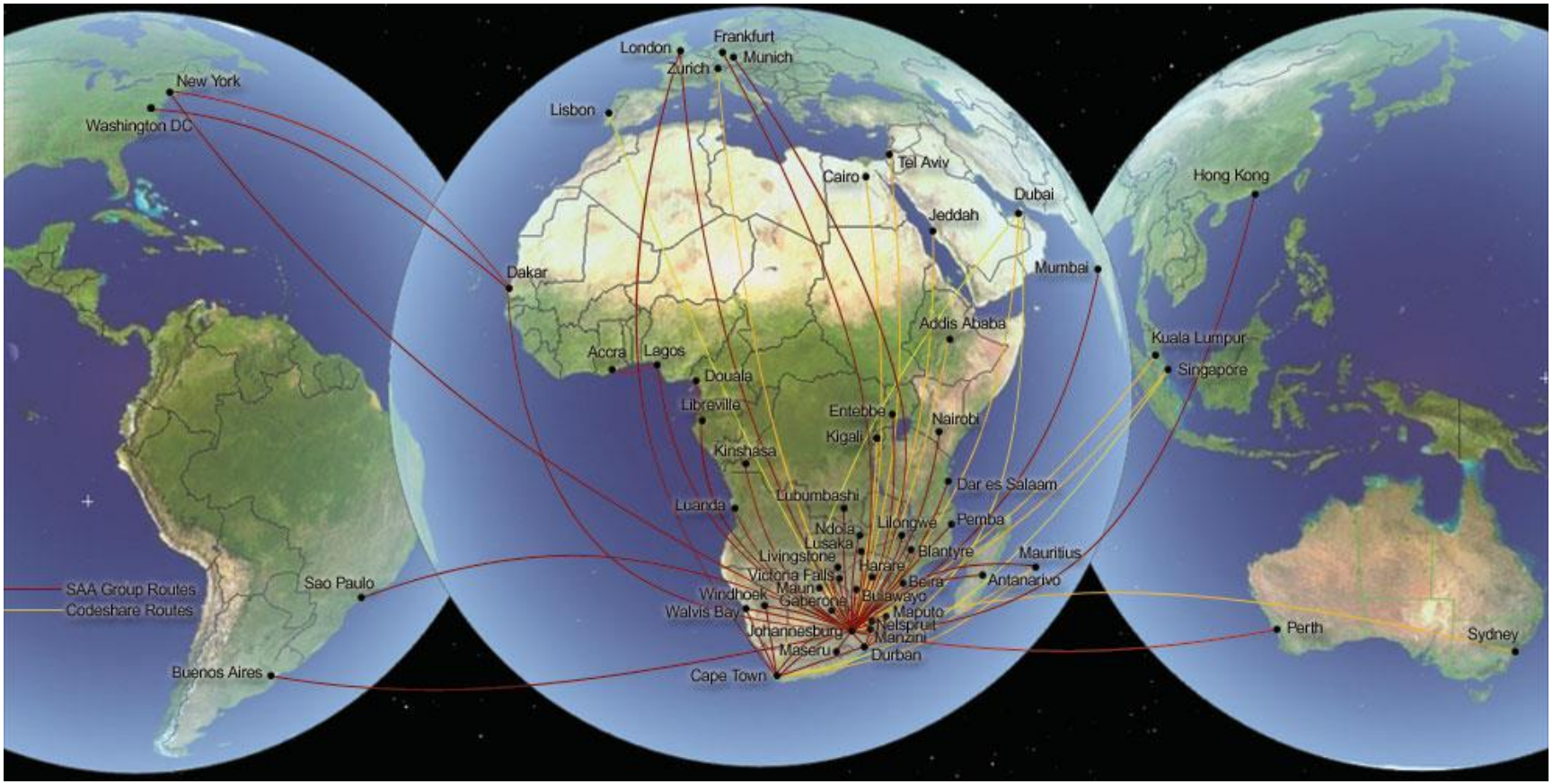
2020

15th Annual STEP PRIVATE CLIENT Awards — STEP — WINNER — Trust Company of the Year (midsize firm)

2021

16th Annual STEP PRIVATE CLIENT Awards — 30 STEP — WINNER — Trust Company of the Year (midsize firm)

MULTI-JURISDICTIONAL FAMILIES AND THE FACTORS THE ESTATE OWNER SHOULD CONSIDER WHEN SETTING UP STRUCTURES FOR THE BENEFIT OF THE EXTENDED FAMILY



SOME STATISTICS OF SOUTH AFRICANS THAT HAVE MOVED ABROAD

Australia:
At the end of June 2019, **193,860** South African-born people were living in Australia which is 28.6 per cent more than the number (150,690) at 30 June 2009. This makes the South African-born population the seventh largest migrant community in Australia, equivalent to 2.6 per cent of Australia's overseas-born population and 0.8 per cent of Australia's total population.

United Kingdom:
The UK's office for national statistics shows that South Africa is ranked in ninth position, with an estimated **229,000** people currently living in the country. By comparison, there were 255,000 South Africans living in the UK as at the end of 2019 which means that there has been an effective net decline of 26,000 people.

New Zealand:
Statistics New Zealand has published its latest travel and migration data, detailing that **7,100** South African migrants have arrived in the country during 2020. This figure is caveated by saying that this 7,100 figure is not an accurate representation of South African citizens who have permanently emigrated to New Zealand especially as strict travel restrictions remain in place due to the pandemic as many visitors have been unable to depart.

SOME STATISTICS OF SOUTH AFRICANS THAT HAVE MOVED ABROAD

USA:
As of 2021, there are over **111,000** South Africans living in the United States.

STATS SA:
Statistics South Africa has published its mid-year population estimates for 2021, showing that whilst the country recorded a net increase of 520,628 people between estimates in 2020 and 2021, South Africa's white population, however, declined by 17,311 people between 2020 and 2021. Stats SA estimates that between 2016 and 2021 **91,000** white South Africans will have left the country over the period.

Mauritius:
As at August 2020 there were **958** South Africans residing in Mauritius.

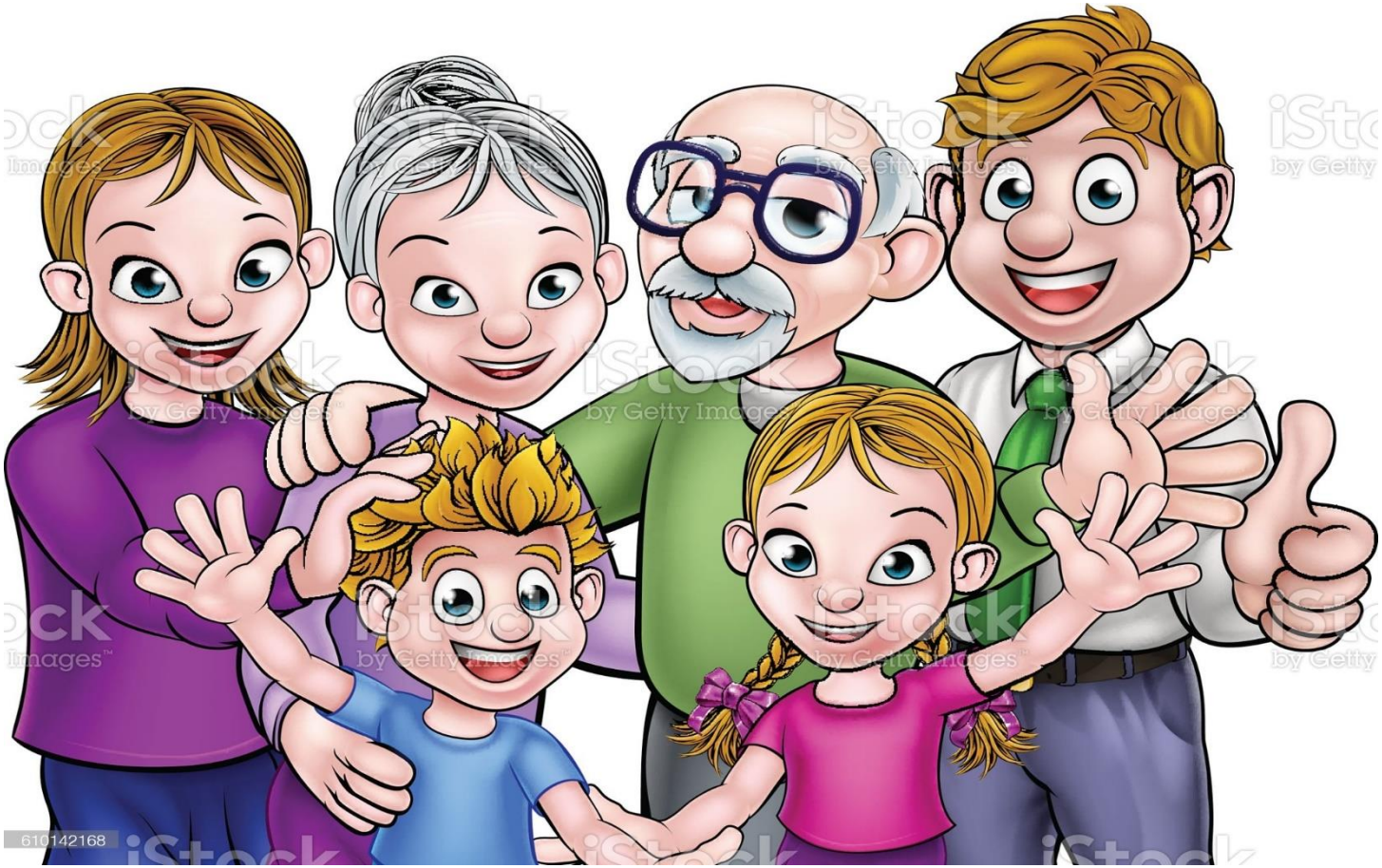
SOME STATISTICS OF SOUTH AFRICANS THAT HAVE MOVED ABROAD

- According to a recent interview on Moneyweb radio Izak Smit, the chief executive of the Professional PPS, mentioned that a significant number of skilled South Africans are leaving the country with the UK, Canada, Australia and New Zealand typically at the top of the list.

- Rand Merchant Bank chief executive James Formby has previously warned that the country's post-lockdown economy is likely to be set back by a brain drain of skills leaving the country. In a February interview, Formby said that the country is losing qualified and experienced people in their thirties and forties to positions overseas.

- And finally, according to a recent New World Wealth report about 4,200 super-wealthy South Africans have left since 2010.

MY FICTITIOUS FAMILY



FICTITIUS EXAMPLE

Background:

- Grant is married to Sarah.
- Grant and Sarah have three adult children who left South Africa at the end of their schooling to study abroad. They also have a child that was scored during injury time and who is still a minor and at school in South Africa.
  - Brendan is 27. He moved to the USA to study there and after he had completed his studies, he found employment and has lived there in total for 10 years. Brendan has married a US citizen and has one child. Brendan is a US tax resident.
  - Niki is 24. She studied in Australia and after she had completed her studies, she found employment and has lived there in total for 7 years. Niki has married an Australian but has no children. Niki is an Australian tax resident.
  - Bruce is 22 and a student at a UK university and has been studying in the UK for the last 3 years. Bruce is a UK tax resident. He still flies home to South Africa during the university holidays.
  - Leigh, their youngest, is only 15 and is still at school in South Africa.

- Both Grant and Sarah have had successful careers and have accumulated significant wealth during their lifetimes.
- Grant and Sarah are married ANC excluding accrual.
- Like a lot of HNW individuals they haven't spent a lot of time concentrating on their own estate planning and have taken *ad hoc* advice from their friend who is an accountant.

GRANT AND SARAH'S ASSETS

- They own the following assets in their personal names;
  - Their primary residence in South Africa valued at R15m.
  - They bought a house in Mauritius as a holiday home as well as to secure a second residency. The value of the property is $1,5m.
  - Grant fancies himself as a bit of a trader so he has a US share portfolio in his name valued at $1m.
  - They have a joint bank account in Jersey that holds £250,000. They were advised that they don't need a will for this bank account as they are both co-owners.

- They have a South African *inter vivos* trust which owns an investment portfolio containing South African listed shares, ETF's and unit trusts valued at R20m. The beneficiaries are Grant, Sarah and their descendants. Grant has a loan to the trust valued at R10m.

- A while back they were advised to establish an offshore trust to hold their foreign discretionary investments. The value of this discretionary portfolio is £3m and it is made up purely of international listed equities. For the sake of this case study let's assume that a portion of the listed shares held in the offshore trust are UK and French situs assets. Both Grant and Sarah funded the trust by way of interest-bearing loans and the value of each of their loans is £1m.

GRANT AND SARAH'S WILLS

- **TESTATOR/TESTATRIX FIRST-DYING**

  Provided my spouse survives me for a period of 30 (thirty) days then I bequeath the residue of my estate to my husband/wife.

- **TESTATOR/TESTATRIX LAST-DYING**

  Should my spouse predecease me or should he/she fail to survive me for a period of 30 (thirty) days, then I bequeath the residue of my estate in equal shares to my children.

  Should a child predecease me or die before the termination of any trust that may be created herein in favour of such child, the benefit that would have devolved upon such child, shall devolve upon his or her descendants by representation per stirpes or, failing such descendants, upon my remaining children or their descendants by representation per stirpes.

- **MINORS TRUST**

  I direct that should any beneficiary be under the age of 21 (twenty-one) years, such beneficiary's inheritance shall not vest in him or her and shall be awarded to my trustees to be held in trust by them to utilise as much of the net income as they, in their discretion, may deem necessary for the maintenance, general welfare and benefit of the beneficiary.

- **NOMINATION OF EXECUTORS AND TRUSTEES**

  I nominate my spouse, and failing him/her then my son Brendan, to be the executor of my estate and as trustee of any trusts created herein.

ASSETS FALLING INTO THEIR ESTATES

- The primary residence valued at R15m.
- The second residence in Mauritius valued at $1,5m.
- The US share portfolio valued at $1m.
- The Jersey bank account valued at £250,000.
- The loan to the South African trust valued at R10m.
- The loans to the offshore trust each valued at £1m.

ISSUES EXPERIENCED WITH GRANT AND SARAH'S EXISTING ESTATE PLAN

MAURITIUS HOLIDAY HOUSE

- The principles applying to the inheritance of property in Mauritius are:
  - The law where the property is located applies to immovable property, and
  - The law of the last domicile of the deceased applies to movable property.

- This applies equally to Mauritian citizens and foreigners.

- Mauritius is a forced heirship jurisdiction, and a portion of the estate is reserved for the children of the deceased.

- No testamentary provision may encroach upon the "reserved portion", which consists of:
  - One half (50%) of the estate if the deceased leaves one child.
  - Two thirds (66%) of the estate if the deceased leaves two children.
  - Three quarters (75%) of the estate if the deceased leaves three or more children.

MAURITIUS HOLIDAY HOUSE

- The reserved portion is divided equally amongst the surviving children and the descendants of any pre-deceased children (i.e. children who die before their parent). The descendants of a pre-deceased child are jointly entitled to the pre-deceased child's share of the reserved portion.

- The unreserved or "available portion" of the estate may be freely willed to any other person, including an heir under forced heirship provisions, or any entity, charitable or religious body, whether Mauritian or foreign.

- Although the surviving spouse forms part of the first class of legal heirs, he/she is not a protected heir, and his/her share may be bequeathed to another legatee by gift or testament. Notwithstanding the above, the surviving spouse is entitled to a lifetime right of usufruct over the matrimonial home and furniture.

- A loan to a Mauritian structure such as a trust or a company and shares in a company are deemed to be movable assets in a Mauritian estate and are therefore governed by South African law i.e. the South African will.

MAURITIUS HOLIDAY HOUSE

- Preparing a Mauritian will is more complicated than drafting a South African will. To start with, Mauritian law does not recognise oral, joint or mutual wills. Furthermore, unlike in South Africa where the surviving spouse or child can be nominated as the executor, no heir can be appointed as an executor in the will.

- It is advisable for a foreigner to draw up a will **in Mauritius** for the "available portion" to avoid cumbersome legalization, registration and cross-border enforcement formalities associated with a foreign will.

ISSUES WITH THE MAURITIUS HOLIDAY HOUSE

- In the will the surviving spouse, and failing the spouse then Brendan, is nominated as the executor. In Mauritius no heir can be appointed as an executor in the will.
- Due to the forced succession rules applicable in Mauritius 75% of the property will automatically pass to the four children.
- Even though the South African testament bequeaths the residue of the estate of the first dying to the surviving spouse the forced succession laws of Mauritius will apply to the immovable property.
- 75% Of $1,5m (R22,500,000) = R16,875,000. This exceeds the section 4A primary abatement of R3,500,000 so estate duty will need to be paid, even on the death of the first dying.
- The same principle would apply for Capital Gains Tax.
- Leigh is a minor so her portion of the property must be held by the testamentary trust established in the will. What about the principle that the SARB doesnt allow a SA trust to directly own a foreign asset?
- Mauritius only issues one Permanent Residency per property. Which family member will receive it?

- **Suggested Solution**: if the property had been acquired by a trust then the forced succession rules would have been avoided. A loan to a trust is governed by the laws of the last domicile of the deceased.

GRANT'S US SHARE PORTFOLIO

- US tax law will consider a South African domiciled individual, who is also a non-US citizen, as a "non-resident alien" ("NRA").

- For Non-Resident Aliens the US Federal Estate Tax is calculated according to a sliding scale up to a maximum rate of 40% (the amount before taxes become due is USD60,000).

- The US and South Africa have a DTA in force governing estate taxes. This generally does not provide much relief as the provisions dictate that South Africa will **not** have a taxing right on **US situs shares**, thereby providing the US with exclusive taxing rights. This will generally result, where the owner of US shares is ordinarily resident in South Africa, in the shares being subject to US Federal Estate Taxes.

- All other assets located in the US will largely also be subject to US federal taxes on the same basis except that, where South Africa may also retain a taxing right, a credit against South African estate duties is generally provided, but only up to a maximum of 20%.

- Unlike the unlimited spouse exemption offered in the UK, the US does not offer the equivalent exemption. So even if the US assets pass to a lawful spouse, there is no spousal exemption (unless the surviving spouse is a US citizen).

ISSUE WITH GRANT'S US SHARE PORTFOLIO

- Even though the South African testament bequeaths the residue of the estate of the first dying to the surviving spouse the US has exclusive taxing rights on the US *situs* shares.
- Unlike the unlimited spouse exemption offered in SA and the UK, the US does not offer the equivalent exemption. So even if the US assets pass to a lawful spouse, there is no spousal exemption (unless the surviving spouse is a US citizen).
- Grant's death will therefore trigger estate duty tax in the US starting at $60,000 and calculated on a sliding scale up to a maximum rate of 40%.

- **Suggested Solution**:
  - If the shares had been acquired by a trust then the US death duties would have been avoided.
  - Don't purchase direct US equities and rather buy ETF's or mutual funds.
  - Use an offshore life wrapper.

JERSEY BANK ACCOUNT

- Most bank accounts are registered in joint names (beneficial joint tenancy). Assets held in this way pass automatically to the surviving joint owner so there is no requirement for a will on the first dying.

- If a person who is domiciled outside of Jersey dies owning assets in Jersey, in their sole name, then a Jersey grant must be obtained. The threshold is £10k but this is wholly discretionary and the bank or other asset holder can insist that a grant be obtained.

- A Jersey grant of probate would also be required by an investment manager before any instructions such as sales or transfers could be made.

ISSUES WITH THE JERSEY BANK ACCOUNT

- As mentioned, there is no requirement for a will on the first dying but no one lives forever so there must be planning for when the surviving spouse passes away. On the death of the surviving spouse, because he/she is domiciled outside of Jersey and the assets are now in his/her sole name, then a Jersey grant must be obtained because the value exceeds £10,000.

- Although just using the SA will is an option, the advantage of having a separate Will to cover the Jersey estate would be that the two estates could be wound up simultaneously. Access to the bank account would be quicker for a Jersey executor who would not have to wait or rely on the local South African estate to produce the required documents.

- **Suggested Solution**:
  - Have an offshore will that bequeaths the value in the bank account to the children in equal portions and Leigh's portion to be held in an offshore testamentary trust until she becomes of age.

ISSUES WITH THE SOUTH AFRICAN *INTER VIVOS* TRUST

- The conduit principle does not apply when capital gains are made to non-SA tax residents. Any gains that are distributed to Brendan, Niki and Bruce will need to be taxed at the rate applicable to trusts i.e. 36%.

- Capital outflow restrictions will apply to distributions that are made to SARB residents. If Brendan, Niki and Bruce are still considered as SARB residents then the distributions will not be able to flow directly offshore to them. In respect of income and capital distributions from *inter vivos* trusts to individuals living outside of South Africa, such distributions may be transferred abroad, subject to the TCS process being completed by the trustees of the trust.

OFFSHORE TRUST WITH UK SITUS ASSETS

- For IHT purposes, the value of UK situs assets will be subject to a **ten-year anniversary charge** (at roughly 6%) on the ten-year anniversary of the Trust (if they are still held at this date).

- If the Settlor retains a potential interest in the Trust as a beneficiary then, as a result, the assets held by the Trust may be within his/her estate for IHT purposes on his/her death. This is due to the **gift with reservation of benefits** ("GROB") regime. The consequence of this is that the relevant settled property (i.e. the value of any UK situs assets) could be treated as being within the Settlor's estate on his/her death and subject to a 40% tax charge on the amount in excess of £325,000.

- **United Kingdom Trust Register**: A non-UK trust will be a relevant trust if it has UK situs assets or UK source income on which it is liable to pay one or more of the Relevant Taxes. If the Trust is a relevant trust then the trustees of a "taxable relevant trusts" are required to report certain information in relation to the trusts to HMRC by submitting information to the Trusts Register. Taxes include income tax, capital gains tax, inheritance tax, stamp duty land tax and stamp duty reserve tax (this is triggered on any acquisition of UK equities).

- **UK source income** of trusts with UK resident beneficiaries is charged at the dividend trust rate (38.1%) or the trust rate (45%) in the same way as if the trust were UK resident. Just one UK resident beneficiary will require the non-UK trustee to file a return to HMRC.

OFFSHORE TRUST WITH FRENCH SITUS ASSETS

- Non-residents are exposed to French gift or IHT on French Situs assets, including shares of listed or unlisted companies, registered in France. Trust assets which are in scope for French gift or IHT are taxable if gifted (capital distributions in specie) or if they are part of the settlor's legacy. The tax charge is calculated on the assets' market value as at date of the gift or death.

- Any French source income received by a non-resident trustee is subject to French tax. Withholding taxes will be payable.

- If the taxable assets remain in trust on a discretionary basis, these are subject to a specific death duty of 60%, or the lower rate of 45% provided all the beneficiaries are the settlor's descendants. The trustee is responsible for the payment of this tax.

OFFSHORE TRUST WITH FRENCH SITUS ASSETS

- 2021 FRENCH GIFTS OR INHERITANCE TAX

Estate Value €	%
Up to 8,072	5
Between 8,072 and 12,109	10
Between 12,109 and 15,932	15
Between 15,932 and 552,324	20
Between 552,324 and 902,838	30
Between 902,838 and 1,805,677	40
In excess of 1,805,677	45

- Annual reporting on the **French Trust Register**. While the trust holds French assets it is also exposed to the 'event' reporting, with a deadline of one month from the date when the reportable event takes place. Annual reporting arises if French Financial Investments are placed in trust at its creation or if the trust is modified (even if no French settlor or beneficiaries). "A reportable event" may include capital and income distributions.

OFFSHORE TRUST WITH UK AND FRENCH SITUS ASSETS

➢ Suggested Solution:

- If the UK and French situs assets had been held by a company that was owned by the trust then this could have shielded the trust from UK and French situs taxes.

PROBLEMS FOR BRENDAN WITH REGARDS TO THE TWO TRUSTS

- From the US perspective, the SA trust and the offshore trust are considered "foreign" trusts (not domestic trusts) because all substantial decisions of the trusts are controlled by non-US persons and the trusts are not subject to the jurisdiction of a court within the US.

- In addition to "foreign" and "domestic" categories, trusts are also divided into two broad categories of "**grantor**" trusts and "**non-grantor**" trusts for US income tax purposes.
  - Grantor trusts generally are disregarded as separate from the grantor (the economic funder of the trust); income earned in a grantor trust is treated as if it were earned by the grantor individually.
  - Non-grantor trusts, by contrast, are separate taxpaying entities. Income earned in a non-grantor trust is taxed at the trust level unless it is distributed (or deemed to be distributed) to the beneficiaries, in which case the tax obligation is borne by the beneficiaries (think discretionary trust).

PROBLEMS FOR BRENDAN WITH REGARDS TO THE TWO TRUSTS

- US income tax law contains a number of regimes designed to discourage the accumulation of income in offshore structures for later distribution to a US taxpayer after having escaped or deferred US taxation offshore for one or more years.

- One such regime applies to **foreign non-grantor trusts** with US beneficiaries. In short, the regime (commonly referred to as the "throwback tax") imposes a punitive tax on income earned by the trust in one year but not distributed to trust beneficiaries until a later year (referred to as **Undistributed Net Income** or "UNI"). When the UNI is distributed to a US beneficiary in a year after the year in which it was earned by the trust, the beneficiary is taxed as if the UNI had been distributed to him or her in the year it was earned by the trust but he or she failed to report it.
  - Interest charges are imposed for the deemed late payment of tax, and
  - certain categories of income otherwise subject to preferential tax rates (such as qualified dividends and capital gains) lose their preferential treatment, which can result in an additional 20% of tax. The longer the trust has been accumulating income, the greater the problem becomes. In an extreme case, a large capital distribution to a US beneficiary can be treated as consisting entirely of UNI and can be consumed entirely by the tax and the interest charges.

PROBLEMS FOR BRENDAN WITH REGARDS TO THE TWO TRUSTS

- Its too late now to change anything as both trusts are already in existence and once a trust is a foreign non-grantor trust, it cannot be converted to a grantor trust by amending the trust deed and adding the required provisions.

- **Suggested Solution:**
  - The problem of the throwback tax does not exist with a properly-structured foreign grantor trust. As a result, a distribution from such a trust to a US person while the grantor is alive is treated as a tax-free a gift from the grantor (but subject to special disclosure requirements).
  - In addition, with proper drafting, any income and capital gains accumulated in a grantor trust during the grantor's lifetime are deemed to be capitalized upon the death of the grantor. The tax basis of each asset in the trust is adjusted to fair market value upon the grantor's death, which eliminates any built-in gains (and losses). As a result, a distribution to a US person after the death of the grantor is taxable only to the extent of income generated or capital gain realized after the grantor's death.
  - Grant could also try and bequeath all or a portion of his loan accounts that he has made to both the SA trust and offshore trust to Brendan as this is considered as capital.

PROBLEMS FOR NIKI WITH REGARDS TO THE TWO TRUSTS

- For Australian tax purposes, trusts are treated as separate legal entities and the residence of both the trust and its beneficiaries are critical issues from an Australian income tax perspective.
- there are a number of provisions directed to ensuring that foreign trust income and capital gains in which Australian residents have (or may be expected to obtain) indirect interests of various types are brought to tax.
- Australian tax consequences will arise in respect of a **non-resident trust** in respect of its foreign source income if a **person is a resident** and:
  - is a beneficiary and presently entitled to its income;
  - **whilst not being a presently entitled beneficiary, has "an interest" whether future or contingent in the trust;**
  - is a beneficiary and has any amount being property of the trust estate paid to or applied for the person's benefit;
  - has transferred property or services to the trust other than in an arm's length business transaction; or
  - is the person who has created the trust and either has power to revoke it or the beneficiaries of the trust are his minor children.

PROBLEMS FOR NIKI WITH REGARDS TO THE TWO TRUSTS

- Australian tax law requires a person who is resident in Australia and is filing a tax return to disclose whether the person has an interest in an overseas trust or could have such an interest brought into existence.

- As mentioned, Niki has lived in Australia for 7 years and has qualified as an Australian tax resident. Any distributions received by her from either the SA trust or the offshore trust will be taxed according to the Australian Income Tax Act.

PROBLEMS FOR BRUCE WITH REGARDS TO THE TWO TRUSTS

- Owing to the limited amount of time that he has spent in the country Bruce is classified as a Res non-Dom.

- The remittance basis applies automatically;
  - if total unremitted offshore income and gains amounts to less than £2,000 **OR**,
  - if no remittances are made, and the person has been resident in the UK in not more than six out of the previous nine UK tax years.

- Otherwise, there is a need to claim the remittance basis and for those resident in the UK for at least 7 out of the previous 9 years, pay a charge of £30k per annum.

SUMMARY OF ISSUES WITH CURRENT ESTATE PLAN

- Brendan is the executor of the second dying estate. Since he does not reside in South Africa this may cause issues with the Master when applying for the Letter of Executorship as he will be unable to provide a Proof of Residence. As he is also a beneficiary of the will this will not be accepted in Mauritius.

- Grant and Sarah each have only one will that deals with their global estate. This will require them to follow due process to wind up their global assets.

- If they did not cease to be SA residents then restrictions on the transfer of capital will still apply to Brendan, Niki and Bruce. This will restrict their ability to transfer the inheritance and any trust distributions offshore. Private individuals who cease to be residents for tax purposes and who are no longer active on the SARS registered database and who receive an inheritance or life insurance policy (excluding lump sum benefits from pension preservation, provident preservation, retirement annuity funds and annuities from insurers) up to R10 million, will not be required to apply to SARS for a Manual Letter of Compliance - Transfer of funds. For applications above R10 million, applicants are required to obtain a Manual Letter of Compliance - Transfer of funds, from SARS.

SUMMARY OF ISSUES WITH CURRENT ESTATE PLAN

- If the three are still residents for Exchange Control then they must place on record any distributions received from the offshore trust in order for them to retain it offshore.

- Residents who become entitled to a foreign inheritance from the estate of a resident must declare these foreign assets via an Authorised Dealer to the SARB Finsurv Department.

- Whilst the three eldest children can inherit directly, Leigh is a minor so her portion must be held by the testamentary trust established in the South African will. What about the principle that the SARB don't allow a SA trust to directly own a foreign asset?

- Brendan, Niki and Bruce will all have adverse tax consequences when they receive distributions from either the SA trust or the offshore trust.

SUMMARY OF ISSUES WITH CURRENT ESTATE PLAN

- The loan accounts to both the South African and offshore trusts. Normally these loans would be bequeathed back to the trust on the death of the surviving spouse to remove sections 7C and 31. However, the loans could used to mitigate Australian, US and UK tax by splitting them between the three children residing outside of South Africa. This would mean that they receive capital when the loans are repaid instead of receiving distributions from the trusts which would be taxable in their respective countries.

FAMILY HARMONY IN ESTATE PLANNING

- Grant and Sarah nominated Brendan as the executor because he is the eldest and because he studied law in the US. Parents tend to view the administration of their estate or trust as an uncomplicated low risk "family matter" best handled by family members with whom they have a close relationship and thus who they instinctively assume to be the best candidates to carry out their intent in the management of their assets and their ultimate disposition to family members.

- This risk becomes significantly greater if an adult child is receiving a lesser or more restricted interest than another child or children under the estate plan or at least one step-sibling of the estate owner is a beneficiary of the estate or trust.

CONCLUSION: DYNAMICS FACING MULTI-JURISDICTIONAL FAMILIES

- It is not uncommon to find parents living in one country and children living in others.
- Different countries have their own laws and taxes including income and estate duty tax.
- Conflicting laws between different countries.
- The pace of legal, cultural and technical developments around the world increases each year, and international estate, trust and tax planning continues to evolve with them.
- Understanding and appreciating the cultures (both legal and national) of the various jurisdictions is also vital.
- Clients may need to balance the desire to move assets out of their estates with the ability to gain access to such assets in times of financial hardship.

CONCLUSION: DYNAMICS FACING MULTI-JURISDICTIONAL FAMILIES

- It is essential that tax advice be sought from specialists in the respective countries.

FACTORS TO BE TAKEN INTO CONSIDERATION FOR MULTI-JURISDICTIONAL FAMILIES

When considering different jurisdictions the following important factors should be taken into consideration;

- Residence, domicile and tax status of estate owner (forced heirship, tax on gifts etc).
- Residence, domicile and tax status of family members (tax on receipts from structure etc).
- Location of assets (could impact tax, practicalities of transfer etc).
- Type of assets (if business assets, does estate owner expect active involvement in business by recipients and what is their expertise?).
- Any US connections (always complicates matters).
- Type of structure (trust, family investment company, foundation, something else?).
- Family dynamics (immediate family or extended family, potential conflicts, ownership splits, separate structures for branches etc).
- Loss of control for estate owner.

FACTORS TO BE TAKEN INTO CONSIDERATION FOR MULTI-JURISDICTIONAL FAMILIES

- Future needs of estate owner (what if too much given away with no recourse for estate owner).
- Costs (structures can be expensive).
- Choice of jurisdiction for structure (regulations, substance, expertise).

THANK YOU

Mauritius

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Gordon Stuart is Managing Director of the Accuro Mauritius office, with overall responsibility for the Mauritian operations, in particular, the implementation of the strategy, the oversight of key client relationships, and driving business development initiatives into the African market.

Prior to moving to Mauritius in 2016 Gordon had 18 years' experience in the private client and trust industry in South Africa with extensive knowledge and experience in South African exchange controls, tax, trusts and wills. Prior to joining Accuro, he was the Group Chief Operating Officer for Sentinel International Advisory Services, a South African fiduciary services company. Gordon is a regular guest on various Business Day television shows and also regularly delivers public talks on all aspects pertaining to trusts, tax and other estate planning topics.

Gordon holds a Bachelor of Commerce Degree in Law, a Certificate in Advanced Trust Law, an Honours Degree in Tax Law, an Advanced Post Graduate Diploma in Finance and Estate Planning and a Master's Degree in Tax Law (LLM). He is a full member of the Society of Trust and Estate Practitioners (TEP) and a member of the Fiduciary Institute of South Africa (FPSA) with the following recognised specialities; Senior Estate and Financial Practitioner, Senior Trust Administrator and Senior Wills Drafter.

Gordon is Treasurer of the Mauritius Association of Trust and Management Companies and is a director of Mauritius Finance, the association that represents Management Companies, Banks, Lawyers, Accountants and the Insurance industry in Mauritius. He is the Chair of the Mauritius Finance Technical Committee for Global Business. He is also a member of the Mauritius Financial Services Commission Technical Committee for Global Business.