Legacy Planning – An Extension of Your Family's Wealth and Intelligence

HSBC
Insurance

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The Myths of Legacy Planning

According to the report, "The Future of Retirement, Life after work", carried out by HSBC in 2013, 70% of retirees wished to transfer a legacy to their children or other relatives. The median value of inheritance sums was as high as HKD1,134,790[1], which shows that the desire for legacy planning is extremely strong.

However, there are a number of myths surrounding legacy planning, which leads to all sorts of issues. If you wish to pass a legacy to your loved ones in an intelligent way, you will need to understand what the various different plans offer in order to find the one that is best for yourself and your family.

Myth 1: There is no need to plan a legacy.

Many people would love to share the fruits of their years of hard work with their loved ones. If you can plan the transfer of your legacy carefully in advance, you can ensure that your assets are distributed according to your wishes, and will not be spread too thinly by taxes and other charges. This will result in your beneficiaries getting the most out of your legacy. In addition, by starting to plan early you are more likely to find a suitable legacy transfer plan, which will help you to pass assets like your family business, and other assets that often cannot be quantified evenly to your family.

Myth 2: Transferring assets evenly is the only way to pass on assets to one's family.

Some may agree that this is an effective way to transfer one's assets. However, if you can manage to separate the wealth you need for your legacy plan from the savings you need for your own retirement, it will help you to enhance the effectiveness and flexibility of any legacy plan:

- Ensure enough savings for your retirement
- Ensure you manage your retirement savings effectively and separately, so you won't worry about spending the assets you have reserved for your legacy plan
- Use insurance plans as a legacy planning tool that can offer protection* for your family and may increase the value of the assets you are planning to distribute

Ensure you have enough retirement savings → $ → **Manage your retirement savings effectively and separately** → $ → **Insurance plans can be used as legacy planning tools, to transfer asset to your offsprings**

Myth 3: A will made before marriage is still legal.

Most people know that writing a new will, or revising an existing one, will render the original will null and void. However, if the testator marries after a will is set up, that will is no longer valid[2].

Myth 4: If there is no will, there can be no legacy transfer.

[Situation 1: If there is a will]

Generally speaking, if there is a will and an assigned executor, the executor will be the only person able to apply for probate. If the executor does not wish to exercise his authority, or there is no executor, the beneficiaries have the right to apply for Letters of Administration[3].

Assigned executor → Application for probate → Inheritance collection

[Situation 2: If there is no will]

If there is no will, that means there is no executor. In such a case, generally the close relatives of the deceased (such as spouse, children, or parents) will become the administrators of the estate. There can be up to four administrators at most. If there are more than four people who qualified to apply for Letters of Administration, and there are unsolvable conflicts regarding the application, the issue can be taken to the High Court where the judge will decide on the administrators[3].

Administrators → Application for Letters of Administration → Inheritance collection

Myth 5: You cannot be an executor of a will until you are 18.

Representatives (a term for either the executor or administrators of the deceased's estate) will have to visit the Probate Registry to apply for a Grant of Representation (a term for a Grant of Probate or Letters of Administration) before they are eligible to inherit the legacy legally. A representative must be at least 21 years old[3].

Myth 6: When residents of mainland China pass away their Hong Kong assets come under Mainland law.

Many people living in mainland China have assets and property in Hong Kong, and many Hong Kong's residents have savings accounts and property in mainland China.

The law with regards to inheritance is the same in Hong Kong and mainland China. For immovable property (such as buildings and houses) immovable property law will apply, so the inheritance rights for property purchased by mainland China citizens resident in Hong Kong will be determined by the laws of Hong Kong. For movable property (such as cash) inheritance will be determined by the laws of where the inheritors live[4].

Myth 7: All applicants are immune from estate duty.

When inheriting a legacy, the date of death should not go unnoticed especially if the deceased has been dead for a long time. Local estate duty was abolished on 11 February 2006. So applicants will not have to pay estate duty for cases happening on or after that date. However, they will have to pay duty for any cases occurring before that date.

For cases happening on or before 14 July 2005, applicants will be charged at progressive rates. However, if the amount of legacy is less than HKD7,500,000, they will not have to pay estate duty at all. If the net value of the estate is over HKD7,500,000, estate duty is payable at a sliding scale of 5%, 10%, and 15%. For deaths occurring between 16 July 2005 and 10 February 2006, even if the total value of the estate exceeds HKD7,500,000, only a HKD100 nominal estate duty will be charged[3].

Sources:
1. HSBC booklet "We focus on the most important economy in the world. Yours."
2. Institute of Professional Education And Knowledge (PEAK) - Legacy planning solutions for high net-worth customers
3. Community legal information centre - Estate duty
4. Information from the talk of CPB and CFP's course lecturer Mr Stephen Guo

* Subject to underwriting conditions

Estate Duty – Varies from Country to Country

Estate duty is one of the oldest taxes in the world. More than 4,000 years ago, an ancient Egyptian pharaoh called Khufu collected 10% of anyone's legacy after they passed away as a tax to pay for his military expenses. This became the point of reference for all estate duty in the future. Today, more than 100 countries still have estate duty in order to narrow the gap between rich and the poor, and as a mean to raise revenue for the country.

Countries with estate duty usually have a gift tax as well

Most countries which charge estate duty also have a gift tax in order to balance the giving and transferring of assets. Estate duty is based on the deceased's legacy, the net amount, and how much the beneficiaries will get from it. A gift tax takes into account gifts given to others prior to the death of the deceased, and is seen as a supplementary tax to estate duty.

Countries with estate duty	Variations
USA	Estate duty is applicable. There are limitations on legacy and gift transfers. Gift transfers that are worth over a certain amount are taxable at the same tax rates as estate duty, which can be as high as 45%[1].
United Kingdom	Estate duty was replaced by a capital transfer tax in 1975 which was later named an inheritance tax in 1986. Starting from the tax year of 1988/89, the inheritance rate was standardised: 0% on the first £325,000 for individual, £650,000 for couples, and 40% on the rest of the value[2].
Taiwan	Estate duty rates were reduced from 50% to 10% in 2008. For property and land, the tax base is based on the market value[2].
Japan	Effective on 1 January 2015, the Japanese government increased the estate duty. The basic exemption was reduced as the formula below: ¥30 million + ¥6 million x the number of legal heir Based on the formula above, it reduces the exemption by more than 40%[3].
Thailand	The first estate duty bill was passed in May 2015. Inheritors of assets worth more than 100 million baht are required to pay tax - at 5% for descendants and 10% for others. The bill is expected to be effective in February 2016[4].
Australia	There is an inheritance law in Australia. Rates vary in each state or territory. To standardise the law across the country reforms are being constantly carried out[2].
Philippines	Used to have both inheritance and estate duty. The former was abolished and only an estate duty is still effective[2].

Countries without a specific estate duty – may impose other taxes on inheritances

In order to spur the flow of cash and trade, however, more countries have opted to abolish estate duty. However, even without a specific estate duty some countries still impose other taxes based on the inherited amount, such as personal assessment tax, capital gains tax, or stamp tax.

<table>
<tr><th>Countries/Cities without estate duty</th><th>Variations</th></tr>
<tr><td>Hong Kong</td><td>Estate duty was abolished on 11 February 2006[2].</td></tr>
<tr><td>China</td><td>Even though an estate duty has never been introduced, the government proposed a tax in 2013, and brought up the possibility of its introduction[5] "at the right time". The proposal was as follows:
<table>
<tr><th>Net value of inheritance (RMB)</th><th>Applicable rates</th><th>Quick deduction</th></tr>
<tr><td>Under 800,000</td><td>0%</td><td>0</td></tr>
<tr><td>800,000 to 2,000,000</td><td>20%</td><td>50,000</td></tr>
<tr><td>2,000,000 to 5,000,000</td><td>30%</td><td>250,000</td></tr>
<tr><td>5,000,000 to 10,000,000</td><td>40%</td><td>750,000</td></tr>
<tr><td>Over 10,000,000</td><td>50%</td><td>1,750,000</td></tr>
</table>
The formula for estate duty:
taxable inheritance's net value x applicable rates – quick deduction[5]</td></tr>
<tr><td>Singapore</td><td>Estate duty was abolished from 2008. If parents transfer their assets to their children when they are alive, a gift tax will be imposed with rates as high as 55%[2].</td></tr>
<tr><td>Canada</td><td>There is no inheritance tax; however, the estate is treated as a sale, and capital gain taxes are charged. The law allows any applicable assets to be transferred to the deceased's spouse at the price it was purchased to lower the tax[2].</td></tr>
<tr><td>Malaysia</td><td>Estate duty was abolished in 1991, as of now, there is no death tax or inheritance tax[2].</td></tr>
<tr><td>Indonesia</td><td>There are no inheritance or gift taxes[2].</td></tr>
</table>

Sources:
1. "The knowledge of gifting", by Money Radio by Mr Sau Wing Lam
2. Institute of Professional Education And Knowledge (PEAK) - Legacy planning solutions for high net-worth customers
3. "About estate duty" on the website of the Thomas Group
4. 24 May 2015, "Thailand introduces an estate duty, and expects it to help increase income by 700 million" Ming Pao's website
5. Deloitte - "Taxation and investment in China"

Three Tools of Legacy Planning

Nowadays, passing on a legacy is no longer just a privilege of the affluent. More and more people are achieving their goal of passing on their legacy by using tools such as a will, a trust fund, life insurance or a combination of them. Increasingly, people are weighing the pros and cons of different tools of legacy planning, to distribute their assets in the way they would like.

Tool of legacy planning 1: Will

A will is a document which sets out how a person's assets are to be distributed after his or her death[1].

Advantage	Disadvantages
1. Before one dies, one can change the contents of a will whenever and however one wants, and change how one's assets are to be distributed[2].	1. Although a will allows you to distribute your assets according to your wishes, for instance, by leaving nothing to a particular family member, the Inheritance Ordinance (Provision for Family and Dependants. Cap. 481 of the Laws of Hong Kong) empowers the Court to order that provisions be made out of the deceased's estate for certain members of the deceased's family and dependants[2]. 2. The content of a will can be publicised at the request of the Court[2]. 3. Even if a will exists, the beneficiaries must apply for a Grant of Representation at the Probate Registry in order to change the owner name's of a property the deceased may have left to them and collect or withdraw money from the deceased's account. Such applications are often time-consuming and bound in red tape[2].

Tool of legacy planning 2: Trust deed

A trust deed is a contract signed between two parties: the founder of the deed (the owner of the inheritance) and a representative. The assets will be transferred to the representative, and he or she will manage and make investments with the asset according to the signed terms. Any interest accrued will then be transferred to the beneficiaries[3].

Advantages	Disadvantage
1. The beneficiaries can obtain their inheritance without going through endless red tape[2]. 2. With the knowledge of the representative, and a plan set in advance, the assets can be passed down to the beneficiaries on a regular basis and thus ensure that family members are well taken of, and money will not be overspent[1]. 3. If the founder of the trust deed is sued or goes bankrupt because of a business failure, the assets in the trust cannot be obtained by debtors[3]. 4. A trust deed is a private document and under no circumstances can the contents be revealed to the public[2].	1. Relatively expensive. After setting up a trust deed, the management fees, which will be charged at a rate of 1% of the assets, can run upwards of HKD40,000 and HKD50,000[4].

Tool of legacy planning 3: Life insurance

Life insurance is another often-used tool for legacy planning. The insurer can decide a fixed sum for the beneficiaries, thus ensuring that sufficient money is available for them quickly and easily when the insurer passes away.

Advantages	Disadvantage
1. Ensures the mobility of assets, and avoids the transfer of the asset being held up during the claim process. 2. Traditional insurance plans usually have a higher payment sum than the insurance premium, meaning that using life insurance as a tool of legacy planning has the benefit of spending less on premiums with the reward of a higher pay out, which in turn increases the overall value of the insurance asset. 3. Managing your personal retirement fund separately from the funds you wish to transfer and using life insurance can solve the problem of assets not being able to be distributed easily.	1. According to The Bankruptcy Ordinance, a trustee is entitled to transfer the asset, or potential asset of the bankruptee to himself or herself, or have full control over it. Therefore, depending on cases, the insurance claim can be forced to be changed to the trustee[5].

Sources:
1. FONGS's website, "Trust and probate"
2. Institute of Professional Education And Knowledge (PEAK) - Legacy planning solutions for high net-worth customers
3. Institute of Financial Planner of Hong Kong (IFPHK) - Legacy planning
4. 23 June 2012, Apply Daily's website "Weekend wealth management: Trust funds as inheritance is not the privilege belonging only to the rich, middle-class citizens can set up one with $5,000,000 assets"
5. 2 August 2012, The Bankruptcy Ordinance, The Department of Justice

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Four Benefits of Using Life Insurance for Legacy Planning

There will always be some difficulties in trying to come up with a perfect plan to transfer your wealth. For example, how can you distribute your family business or property equally between several people, how can you ensure that your chosen beneficiaries will have enough money during the inheritance process for their needs, and how can you add value to both your retirement funds and legacy at the same time. Life insurance stands out as an effective tool to tackle these legacy planning challenges and provides solutions for all the issues, thus allowing insurers to distribute their assets according their wishes.

Benefit 1: Wealth protection[1]

When it comes to legacy planning, it is wise to manage your personal retirement savings and the funds you plan to transfer as part of your legacy separately. On the one hand, this will help ensure you have enough funds for your own life after retirement. And on the other hand, you don't need to worry about depleting the value of your legacy to others.

Benefit 2: Increased liquidity for family protection[1]

The assets of any deceased person will be frozen until the Grant of Representation is issued by the Court. The authorised representative will then be able to take possession of the property or transfer any wealth from the deceased's account to his or her own. The whole application process is time-consuming – it can take from a few months to even a few years, and often adds another burden on the shoulders of the deceased's family members at an already difficult time.

In order to enhance the liquidity of your assets when applying for the Grant of Representation, the asset owner can consider purchasing life insurance. In most cases, a Grant of Representation is not needed during the inheritance process. As long as all the insurance terms are followed and fulfilled, the beneficiaries can receive the funds* fairly quickly thus increasing the liquidity of the legacy.

Benefit 3: Help distribute wealth[1]

It is a strong tradition within Asian cultures to pass on a legacy and one's wealth to the next generation. However, assets may cover a variety of categories, some of which cannot be divided easily among heirs. Some people may want their children to succeed them in the family business, but the children themselves may not share the same wish. When faced with a business and assets that cannot be easily divided, fair distribution becomes a challenge. In such circumstances, life insurance can help create more liquid assets for distribution[†] of your wealth, allowing you greater flexibility in passing on your legacy according to your wishes.

Benefit 4: Control over your wealth distribution[1]

Aside from the above three benefits, there is one more benefit using life insurance as a tool of legacy planning: having full control over your wealth transfer plan, and thus ensuring that privacy will be maintained. The insurer can also easily change the beneficiaries[‡] and the amounts to be distributed whenever and however he or she wishes without additional cost[†]. Also, the claim process for the beneficiaries is usually much faster than from a will.

Source:
1. HSBC booklet "We focus on the most important economy in the world. Yours."

* When the premium can be claimed depends on the process
† Subject to features of insurance plans
‡ Designation of beneficiary is subject to underwriting requirement such as insurable interests

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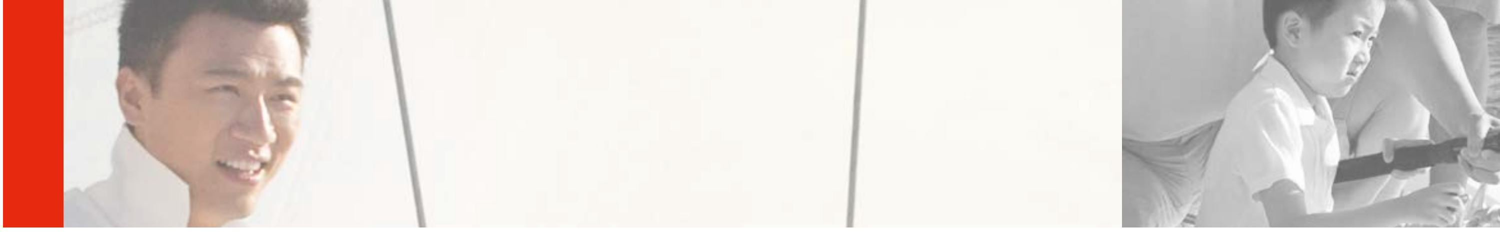
How to Pass Down a Family Business and Assets

The media often reports legacy disputes especially in places like Hong Kong, mainland China, and Taiwan. Such disputes, particularly among large and affluent families often make the headlines. But it is not just the very wealthy who should plan their legacies carefully, even small-scale family-run businesses are well advised to take legacy planning into account as soon as possible to ensure a fair distribution of assets. Other than having a will, trust funds and insurance are other options as legacy planning tools which can help to even out the distribution of assets to minimise conflicts between family members.



Business assets are hard to be divided

Assets can consist of more than just cash of course which is easily divided. They can also include property, stocks, shares, business premises, retirement funds and more. Other tangible assets such as cars, jewellery and art collections are also not easily divided and distributed. By using life insurance as a tool for legacy planning, you can pass on your legacy according to your wishes, especially for those assets that are less liquid.

The case of Mr and Mrs Chan illustrates the benefits[1] of using life insurance as a legacy planning tool. They have total estate worth HKD20 million. They wish to put aside HKD8 million as a retirement fund for themselves, and divide the rest evenly among their children. After taking out HKD8 million from their assets, they have HKD8 million worth of business assets, and HKD4 million worth of current assets. To ensure fairness, they will have to divide the business assets in half, as shown below:

Mr and Mrs Chan's HKD20 million estate

Business assets
HKD8 million

By will
HKD4 million

Retirement funds
HKD8 million

The business assets will be split evenly between their two children, each of whom will get a share worth HKD4 million.

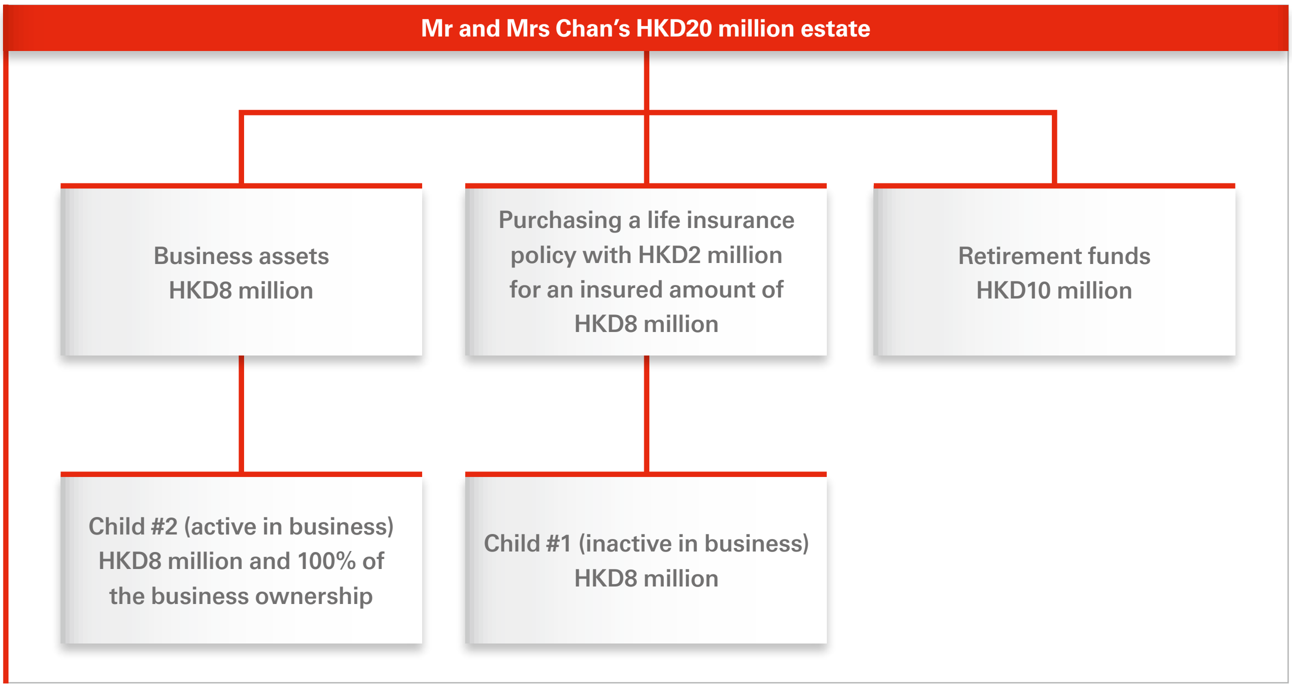
Child #2
HKD6 million

Child #1
HKD6 million

Using life insurance as a legacy planning tool can increase the liquidity of one's assets

With life insurance, property assets will not have to be spilt in two. The Chans can pay a lump sum premium of HKD2 million in order to make sure the child who is inactive in the business inherits HKD8 million in assets, while their other child receives the same amount of inheritance.

At the same time, their total retirement fund will increase in value, from HKD8 million to HKD10 million, a 25% increase compared to that without life insurance. The flexibility of distribution and the liquidity of assets will both be enhanced as well. The Chans can also make sure the child who would like to follow in their footsteps in the business inherits the entire business.



Note: The sum assured, which will vary from product to product, is based on a given premium amount, and the premium amount is based on the life insured's gender, age, smoking habits, the sum assured and other underwriting considerations. Please refer to relevant product materials for details.

From the case of the Chans, we can see that the biggest advantage of using life insurance as a tool of legacy planning is that it can help distribute one's legacy flexibly, by separating the inheritance assets. The net value and liquidity of the legacy will also go up. Parents can prepare their own wills when it comes to setting the sum assured for different beneficiaries.

At the same time, the amount of their own retirement fund also rises, so they no longer have to worry that they will overspend their legacy, leading to unnecessary hardship or saving habits. The insured and the beneficiaries can also enjoy wealth protection to secure both their retirement life and safe legacy transfer.

Source:
1. HSBC booklet "We focus on the most important economy in the world. Yours."

An Expert's Take

Dr Michael Yue Kwong Chan, Honorary Chairman of the Legacy Academy Limited

Mr Stephen Guo, FPSB China International Certified Financial Planner Professional Standards Committee (China) Lecturer

Dr Michael Yue Kwong Chan, Honorary Chairman of the Legacy Academy Limited

The philosophy of planting seeds – extending your family

Over 60% of local businesses are family owned, but only 4% of them have planned for succession to the next generation. The fast food chain, Cafe de Coral, is one of the exceptions. Before the owner, Dr Chan, retired from his position as chairman in 2012, he spent four years planning the transfer of the business to his successors. Dr Chan believed the company would have no future if he refused to let go. "It's like how farmers plant rice seeds," he said. "You put the seeds deep in the ground, and work backwards – that's how you find your successor. But after relinquishing the halo of CEO, I got a new opportunity to develop the Legacy Academy."

Dr Chan is now the Honorary Chairman of the Legacy Academy Limited, teaching businesses of various sizes how to pass the baton to the next generation. He educates both those who are currently calling the shots and those who will do so in the future.

Question: Peter Drucker, the famous management guru, once said, that the ultimate test of every entrepreneur is passing on his business successfully. But when it comes to doing that, what is the biggest challenge?
Dr Chan: Most people think only about transferring their wealth, but in fact, that's the easiest part, as one can simply set up a will or a trust fund. The most challenging parts are transferring the high-level soft assets, such as the frame of reference of a company, corporate knowledge, or extending family relationships. The success of any business transfer boils down to the trust and communication between family members. That means setting clear rules and building consensus over time. Sometimes, you can spend a great deal of time on something just for a moment of glory. Family businesses take time and patience to manage.

Question: Are family business transfers in Asia generally successful?
Dr Chan: According to research conducted by J.P. Morgan, over 90% of family businesses owners in Asia want to pass the baton on to their children. However, 88% of them have made no clear plans for the actual transfer. Another piece of research, carried out by a local university, indicated that within eight years of the transfer to the next generation, the stock prices of many companies go down, some of them plummeting by as much as 60% to 70%. At this time there are around three million private enterprises in China currently ripe for business transition. Whether these transfers go smoothly or not will have a big effect on China's economy.

Question: Have there been any cases of successful family business transfers in Hong Kong?
Dr Chan: Lee Kum Kee, which has a history of over 100 years, is the best answer to this question. The company is now in its fifth generation since the foundation of the business. Their core value has always been "Think about yourself as well as others", and that is how they manage their business. To govern the smooth continuity of the family business and ensure its steady development, Lee Kum Kee came up with a set of family laws for the group. The laws are upheld and monitored by a family administration group and ensure that every family member can compete fairly against each other. The family laws also have a hint of tradition, as they forbid affairs, and encourage early marriages in order to have more offspring to strengthen the family ability to extend the line.

Question: According to a survey, 90% of fathers would like their children to inherit their business. However, over 95% of the children involved stated that they did not wish to follow in the steps of their parents. So how can the older generation resolve such dilemmas?
Dr Chan: According to Confucian philosophy, blood is always thicker than water. Your family members are always closest to you, and this may pressure people into transferring their business only to blood relative. If a person is simply nepotistic, however, and does not pick the most professionally experienced person to manage and lead the business, the business will miss a great chance to develop. If you take my children as examples, my son is now running a bakery chain in mainland China, and my daughter is the owner of an interior design company. They each created their own career paths. But I believe the innovation that is always seen in the food and beverage business can be seen in the way they work. They have inherited my business DNA. It just happens that they work in different fields from the one I did. I respect their decisions, and I'm proud of what they have achieved.

Question: Can new successors, honour the traditions of the company while demonstrating their own strengths, and adding new elements to the business?
Dr Chan: Adrian Cheng, is the third-generation heir of one of the biggest estate businesses in Hong Kong: New World Development. He is clearly an example of a successful transition. He graduated from Harvard University in America, majoring in East Asian studies, and then went to Kyoto to pursue a Master's degree in the Performing Arts. He has now successfully blended his artistic insights into his family estate business. He created the world's first art mall, K11, which combines elements of art, humanity, and nature with businesses. He has now extended the business to cities in mainland China, introduced new opportunities for the family, as well as showcasing his skills in art and promoting the arts.

Question: How can you reach a consensus among the members of a family? How do you build trust?
Dr Chan: Try practicing how you manage the business at family meetings. I have regular meetings with my family, we have an agenda to follow, so we can discuss business policy, finance, and such seriously. We also look into each other's thoughts on family rules. Our meetings also touch on our family history, and stories of family members, which helps to bring family members closer, and provides us with a chance to communicate with each other, thus building a harmonious relationship.

Mr Stephen Guo, FPSB China International Certified Financial Planner Professional Standards Committee (China) Lecturer

China's estate duty is imminent

In Chinese tradition, it is still taboo to discuss matters relating to death or inheritance. So legacy planning is often put on the back burner in mainland China. However, the need, and thus the demand, for inheritance planning is huge. Mr Stephen Guo, who is a CPB, CFP and FPSB China International Certified Financial Planner has taught courses in these areas at financial organisations and in mainland China. He specalises in estate duty cases in mainland China and how to keep family wealth and the transfer process intact. He mentioned that families are getting richer, and family structures are becoming more intricate, and this, combined with the ageing population, means that a peak in the need for legacy planning is just around the corner. More and more people with high-value assets will be seeking advice on legacy planning.

Question: Is legacy planning a popular concept in mainland China, and if so why?

Mr Guo: According to some research conducted in 2015, 46% of those with high-value assets and 51% of those who were even richer, had started considering legacy planning. This shows that the need for and knowledge of legacy planning are both rising.

- **Question: What are the differences in legacy planning between Hong Kong and mainland China?**

Mr Guo: Mainland China has its own legal system, while Hong Kong has a system that is similar to that of the United Kingdom and the USA. The differences are quite large. Taking inheritance as an example, there is a more narrow range of who can inherit a legacy in mainland China. On the Mainland there are two types of people who can become beneficiaries: the first consists of spouses, parents, and children, and the second consists of siblings and grandparents. Grandchildren are not included. However, in Hong Kong, the range is much wider, and the order of inheritance is more defined. In additional to the aforementioned relatives, the children of siblings, and other close relatives, such as uncles and aunts are also included. Another difference is that spouses in Hong Kong are not necessarily the first to inherit the legacy, they can co-inherit with the first, second, or even third beneficiaries.

It is also common in the Mainland for some affluent people to have assets under the names of their relatives or friends. In such cases, the Law deems that the legality of the arrangement depends on its compliance with law 52 of the Contract Law of the People's Republic of China, which may lead to a risk for legacy planning.

- **Question: Is there an estate duty in China? If not, will there be one?**

Mr Guo: There is no estate duty as of now. However, the Interim Regulation on Real Estate Registration, which came into effect in March 2015, is seen as the basis for an estate duty in the future. It is just a matter of when. However, there are a few points worth paying attention to in the Interim Regulations of the People's Republic of China on Inheritance Tax (Draft), which was first issued by the Finance Department in 2004, and revised in 2010.

- According to the first rule on International Taxation, even if Chinese citizens have emigrated to another country, if they still have estates in China, the estate duty will be applicable
- According to the second rule, estate duty will apply to any assets gifted to others up to five years prior to death
- According to the sixteenth rule, if assets were sold at a low price to any family members prior to the principal's death and there is a lack of a reference price, or the price is obviously lower than that of the market, the value of the asset will be estimated according to when the estate was sold, and the estimation will have to be verified by the State Administration of Tax to be valid
- According to the fifteenth rule, beneficiaries can only inherit assets after tax is cleared. In view of this, it may be a challenge to ensure that they can receive their inheritance within a short period

- **Question: What's the difference between having legacy planning and not having it?**

Mr Guo: The King of Coal in Shanxi passed away in July 2015, without a legacy plan. His wives, and children all vied for the stock under his name, his employees went to his various companies and offices, chasing salary, and computers were looted as a result. Eventually, the police had to intervene, and the future of the family business looked bleak. As the conflicts could not be settled, it looked like the family would have no choice but to turn to the courts to divide the assets equally among spouses, children, and parents. They all had to apply to an Inheritance Rights Notary, and every potential beneficiary had to sign an agreement for the notary to be valid, otherwise the case would have to be solved in court.

Other cases involved relatives fighting for company stock, and forcing a part of the company to stop working for an indefinite amount of time. Other fights over assets such as property and savings, and resolving other issues such as children outside marriage, transferring company stock, and management would all be expensive, publicly scandalous, time wasting and result in loss of control by family members.

- **Question: What other potential risks do those with high-value assets face when it comes to legacy planning?**

Mr Guo: To those people, it is all just numbers and the numbers may not reflect what they truly have. There was a property developer who was bogged down by his partners, and one of the partnering companies did not pay salaries leaving the main company responsible. That developer had to pay the salaries, and was only able to do so by selling his own property. Divorces can also affect the division of stocks, and deplete the control of those affluent people.

Wang Yung Hing, who was an influential entrepreneur in Taiwan, passed away in 2008, leaving 60 billion New Taiwan dollars behind. After deduction of allowances such as the married person's allowance, and based on the 50% estate duty rate at that time, the estate had to pay tax on the 23.8 billion New Taiwan dollars that remained of which, 11.9 billion New Taiwan dollars was taxed. Thus the amount of wealth that could be passed down shrank substantially.

For those with huge amounts of assets, legal action may have to be taken if they may have property in several countries. Their family members may also be bound by laws in other countries depending on their nationalities. This means that legacy planning also has to take into account the different laws of the different countries that may be involved. This can be done by using different tools, such as insurance plans and trust funds, to avoid the confusion which may lead to company directors selling their personal property to pay for debts owed by their companies, or giving away stock to ex-spouses due to divorce, losing power in the process, and increasing the risks for higher estate duty.