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LegacyENG052018

Inheritance of Wealth and Wisdom – Continuation of Blissful Generation

HSBC Insurance

Contents

Passing on wealth to children is customary and natural to the Chinese. However, a survey found that although most people aged over 60 in the Mainland understand the importance of a will, only 1%[1] of them have prepared one. Disputes big or small often arise over legacy distribution because of this non-action. It is also found that not more than 12%[2] of Asian family businesses have formal succession plans in place. The time has come for us to understand, sooner rather than later, some of the challenges facing wealth transfer and business succession. Let's start preparing ourselves for a smart solution in transferring wealth to our loved ones.

1 The Challenge of Inheritance

General Procedures of Inheritance in Hong Kong and Mainland China

Hong Kong

With a Will

You (as testator) can make a will in writing and have it signed in the presence of two witnesses who are over the age of 18. You may also instruct a solicitor to prepare the will and appoint an executor, who will be the only person entitled to apply for a Grant of Probate of the will. The executor's authority and duty start from the very moment the testator passes away[3].

Without a Will

Under Rule 21 of the Non-Contentious Probate Rules (Cap. 10A of the Laws of Hong Kong), persons having a beneficial interest in the estate shall be entitled to a grant to administration in the following order of priority:

I. the surviving spouse;
II. children of the deceased (including children born without a union of concubinage*);
III. father or mother of the deceased;
IV. the brothers or sisters of the deceased, or the descendant of any deceased brother or sister of the deceased who has died during the lifetime of the deceased.

The maximum number of administrators of an estate is four. If issues arise between persons who are all equally entitled to apply for the Grant, an application should be made to the High Court to determine who will be appointed as administrators[3].

*If the parents died after 19 June 1993, all children of the deceased, including any children born of or without a union of concubinage shall be entitled to the same succession rights of an estate[3].

Mainland China

With a Will

A will should first be notarised in order to confirm its legitimacy and priority position. According to a survey, there are around 3,000 notaries in China to provide third-party witnessing and assistance to testators writing their wills[4]. Notaries will provide all necessary evidence to the Court upon the testator's death, thereby facilitating the Court's verification of a will, as well as the smooth application by descendants for a Grant. In the absence of attestation by the notaries, it is difficult to tell how long the processing time will be if a court decision is needed to confirm the legitimacy of a will[5].

Without a Will

According to Article 10 of the Law of Succession of the People's Republic of China, succession rights rank in the following order:

I. People with first priority include spouse, children (defined as children born of or without a union of concubinage, adopted children and stepchildren with support relationship) and parents of the deceased;

II. People with second priority include siblings and grandparents;

III. Succession rights go first to people with first priority of succession. The rights come to people with second priority only if there is no successor of first priority.

The "support relationship" between stepchildren and stepparents refers to the scenario where the stepparents raise and support the stepchildren until they become adults, and vice versa the stepchildren also support their stepparents when they grow up, thus constituting rights and obligations in the same way as in natural parent-child relationships. In this scenario, when the stepparents pass away leaving an estate, such stepchildren are entitled to have the same succession rights as children born of a union of concubinage[6].

1 People's Daily Online "How common is a will in China? The elderly's view is the key", 9 January 2017
2 Website of Legacy Academy "The Successors" by Dr. Michael Y.K. Chan, the Honorary Chairman of Legacy Academy, 29 April 2016
3 "Community Legal Information Centre" of The Law and Technology Centre of The University of Hong Kong, 2017
4 People's Daily Online "How common is a will in China? The elderly's view is the key", 9 January 2017
5 "Judiciary and Administration in China", Law Press 1993
6 "Stepchildren without support relationship do not have succession rights", the website of The Supreme People's Procuratorate of the People's Republic of China, 6 January 2018

The Effects of Marriage and Divorce on Will Making

Hong Kong

A marriage subsequent to the execution of a will automatically revokes the will unless it is proved that the will was drafted under consideration of that marriage. The most authentic evidence for this purpose will be a clause in the will expressly stating that the subsequent marriage with a named person shall not revoke the will[7].

A divorce subsequent to the making of a will does not revoke that will, although some terms may be rendered invalid. For example, appointment of the ex-spouse as guardian for the children, or instructions in the will to gift the ex-spouse will lapse unless the will contains an express statement to the contrary[8].

Mainland China

According to Article 26 of the Law of Succession of the People's Republic of China, married couples follow the common conjugal property system which dictates that, unless special arrangements are in place, half of the common property should first go to the surviving spouse in distributing the estate, before the residuary estate becomes available to any successor[9].

The Impact of Testator's Indebtedness on the Successor

Hong Kong

Upon the death of the deceased, creditors will turn to the executor or the administrator of the deceased's estate for repayment of any outstanding debts. In such case, the estate will first be used to settle any debts, before the residuary estate is made available to the successor. If the estate is not enough to settle all debt obligations, the successor will not be required to pay off amounts still outstanding[10].

Mainland China

The successor will inherit responsibilities for tax payable and debts outstanding by the testator, up to a maximum of the actual value of the estate. If the value of outstanding tax and debts exceed the actual value of the estate, the successor will not be responsible for any amounts exceeding the total value of the estate, unless he/she voluntarily wishes to do so. Or, if the successor gives up the succession, he/she will not be responsible for paying the tax and debts of the testator as prescribed by law[11].

7 Rule 14 of the Wills Ordinance in Hong Kong, 9 June 2000
8 Rule 15 of the Wills Ordinance in Hong Kong, 9 June 2000
9 Rule 26 of the Law of Succession of the People's Republic of China, 1 October 1985
10 "Community Legal Information Centre" of The Law and Technology Centre of The University of Hong Kong, 2017
11 Rule 33 of the Law of Succession of the People's Republic of China, 1 October 1985

2
Summary of Estate Duty in Different Countries

To enhance parity between taxation for the gifting of property during one's lifetime and the inheritance of legacy, most countries which charge estate duty also implement a gift tax. Estate duty is levied on the deceased's legacy including a levy on the total value of the legacy, and the value of inheritance received by the beneficiary. A gift tax takes into account gifts given to others during the lifetime of the deceased and is seen as a supplementary tax to estate duty.

In order to attract inflow of investment and capital, more countries have opted to abolish estate duty. However, in the absence of a specific estate duty, these countries do impose various taxes based on the value of the inheritance, including personal income tax, capital gains tax, and stamp duty.

The Consideration on Estate Duty

Since estate duty policies vary from country to country, and come with different tax rates and allowances, it is wise to consider legacy planning early and seek professional advice to understand the relevant estate duty policies.

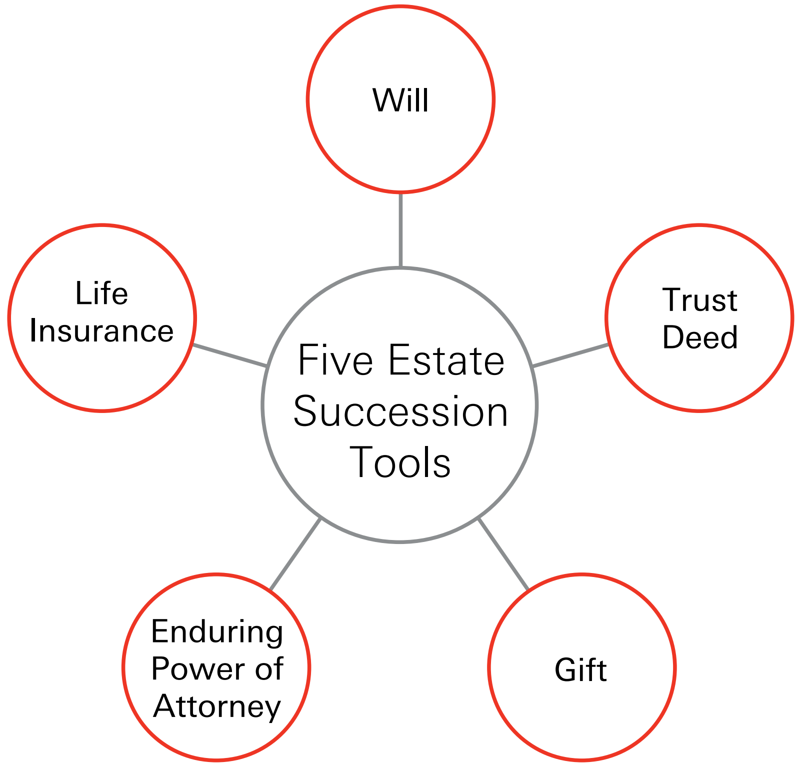
Hong Kong	Estate duty was abolished on 11 February 2006. For details, please refer to Revenue (Abolition of Estate Duty) Ordinance 2005 of Inland Revenue Department.
Mainland China	According to Ministry of Finance of the People's Republic of China's response to "Category of Property, Tax and Finance No.018" from the fifth session of the 12th CPPCC National Committee in August 2017, estate duty is not charged in Mainland China currently. Please refer to http://szs.mof.gov.cn for details.

For the details of tax systems of other countries, please refer to:

Australia	Australian Taxation Office https://www.ato.gov.au
Canada	Government of Canada – The Canada Revenue Agency https://www.canada.ca/en/revenue-agency.html
America	Internal Revenue Service https://www.irs.gov
United Kingdom	HM Revenue & Customs https://www.gov.uk/government/organisations/hm-revenue-customs

3
Five Estate Succession Tools – Characteristics and Challenges

Nowadays, passing on legacy is no longer a privilege of the affluent. People are increasingly aware of the different estate planning tools available and make use of them in allocating their assets as they wish. A wide range of tools can cater to different estate planning goals. However, as different estate planning tools may involve different taxes, such as estate duty, stamp duty, capital gain and gift tax, please seek professional advice where necessary.



Estate Succession Tool - **Will**

A will is a legal document which sets out how an estate is to be distributed[1].

Characteristics

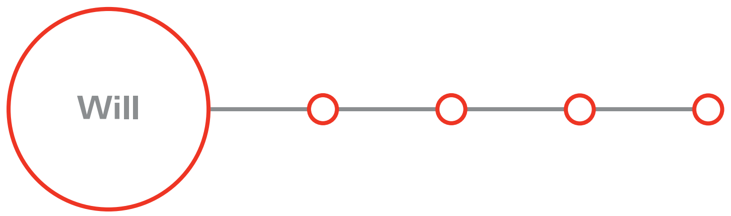
The testator can modify the content of the will and allocation of the estate while he/she is still living[1].

Challenges

1. Although a will allows for distribution of your assets according to your wishes, the Inheritance (Provision for Family and Dependents) Ordinance (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 dependents[1].
2. The content of a will may be disclosed at the order of the Court[1].

Processing Time

In general, applications for a grant of representation take 5 to 7 weeks to complete, whereas complicated cases will take longer[2].



1 "Community Legal Information Centre" of The Law and Technology Centre of The University of Hong Kong, 2017
2 Public information on Probate Registry page of the Hong Kong Judiciary, 27 November 2017

Estate Succession Tool - **Trust Deed**

A trust deed is a document signed between the grantor (as owner of the inheritance) of the deed and a representative, whereby the inheritance assets will be transferred to the representative who will manage and make investments with such assets following conditions set out in the deed. Any earnings accrued in this manner will then be transferred to the beneficiary[3].

Characteristics

1. The beneficiary will be able to avoid legal procedures in attesting a will, as well as receive proceeds from the estate more quickly.
2. The family asset inheritance will be kept strictly confidential under the trust deed[4], because it is a private document whose contents will under no circumstances be disclosed to third parties.

Challenges

Different forms of fees will apply, including establishment fee and annual administration fee for trusts, or other service fees outside the contract. The fees will ultimately depend on specific details of the trust assets and terms in the deed.

Processing Time

Depending on the complexity of the assets, the trust will be operational once the trust fund is established, without having to wait until the death of the grantor. It can also continue to run uninterrupted after the grantor passes away.

3 Website of Institute of Financial Planners of Hong Kong "Legacy Planning", 2017
4 Investor Education Centre, 8 February 2018

Estate Succession Tool - **Life Insurance**

The policyholder can, at their own choices, take out a life insurance policy with the chosen coverage amount for the life insured, and nominate beneficiaries according to his/her wishes. Beneficiaries will receive the specified benefit amount after the life insured passes away.

Characteristics

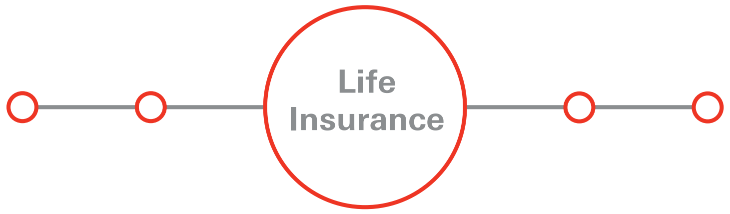
1. Beneficiaries can make claims on presentation of relevant documents. Compared to inheritance under a will, the processing time of life insurance claims is much shorter.
2. Maintains liquidity of the assets and avoids asset freezes during the claim process.
3. Ensures full control by the policyholder over his/her asset transfer plans, while maintaining confidentiality.
4. Life insurance facilitates separate management of retirement savings from one's estate, while also provides flexibility in distributing assets which are hard to split up.

Challenges

According to the Bankruptcy Ordinance, a trustee is entitled to transfer the assets or potential assets of the bankruptee to himself/herself, or exercise full control over the assets. Therefore, subject to individual cases, the ownership of the bankruptee's life insurance policy may be subject to enforced transfer to the trustee[5].

Processing Time

After all required documents are handed in, the claim will be finished in about 1-3 weeks. For emergency cases (e.g. accidents), procedures can be completed within 3-5 days[6].



5 Website of Department of Justice, "Bankruptcy Ordinance", 2 August 2012
6 This may vary from case to case and is subject to terms and conditions set out in the policy provision

Estate Succession Tool - **Enduring Power of Attorney**

An enduring power of attorney ("EPA") allows its donor to appoint attorney(s), while he/she is still mentally capable, to take care of the donor's financial matters in the event that he/she subsequently becomes mentally incapacitated.

Characteristics

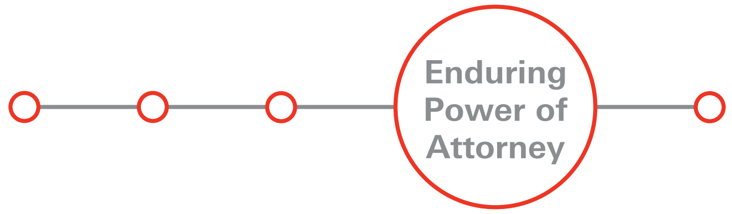
1. Allows the appointment of more than one attorney.
2. Provides an efficient and cost-effective way of administering the individual's property.
3. Eases the difficulties and distress that may otherwise be suffered by the donor's family (e.g. elderly spouse) in managing the donor's affairs and avoids expensive and potentially distressing court proceedings[7].

Challenges

1. An EPA signed in the presence of a medical practitioner does not constitute a complete and legal-binding document. The EPA must be signed by a solicitor before it becomes effective[7].
2. The EPA is valid only when the donor is mentally incapacitated. Once the donor passes away or goes bankrupt, the EPA will be revoked[8].

Processing Time

Since an EPA will come into effect when the donor becomes mentally incapacitated, it is not feasible to estimate the processing time.



7 Website of Institute of Financial Planners of Hong Kong "Legacy Planning", 2017
8 "Community Legal Information Centre" of The Law and Technology Centre of The University of Hong Kong, 2017

Estate Succession Tool - **Gift**

Gifts refer to actions by estate owners to give his/her property rights and interests to specific family member(s) unconditionally[9].

Gifting becomes legally-binding only when set out in a signed deed, whose original and copies must be signed, chopped and delivered to all parties therein[10]. A common example of a gift is the passing of properties to the children or spouse by means of a deed.

Characteristics

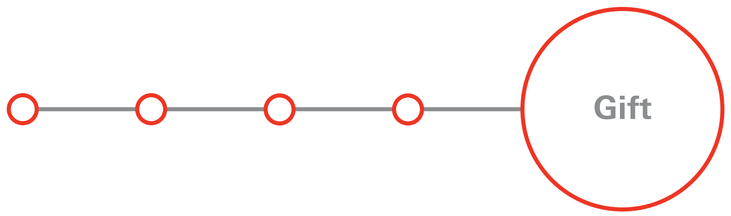
Gifting is not limited to close relatives. A gift can be given to a specific family member[9] or to charities for the benefit of the society.

Challenges

1. In a divorce proceeding, if one party has made arrangements for property disposal, including a gift deed with the intention to prevent the other party (requesting financial support) from successfully obtaining the claim, the court can order that such property arrangement be made invalid[11].
2. If the donor goes bankrupt, properties already given away in the past 5 years may be recovered by the trustee in bankruptcy[12].

Processing Time

In general, law firms can process documents and complete procedures of a gift deed in 2-3 weeks.



9 Website of Institute of Financial Planners of Hong Kong "Legacy Planning", 2017
10 "Community Legal Information Centre" of The Law and Technology Centre of The University of Hong Kong, 2017
11 Hong Kong Legislation Cap. 192 "Matrimonial Proceedings and Property Ordinance" Rule 17
12 Hong Kong Legislation Cap. 6 "Bankruptcy Ordinance" Rule 49

4 Using Life Insurance in Your Inheritance Plan

Among tools for inheritance planning, life insurance offers protection for the family, facilitates planning for distribution of wealth as you wish, and at the same time caters to the needs of your family. The key benefits of life insurance in terms of inheritance planning are:

1 Enhance liquidity and provide protection

Life insurance enables you to prevent situations where the deceased's assets may be frozen during the legal procedures before any distribution of estate could proceed. In most cases, life insurance claims do not need to go through any legal applications, enabling beneficiaries to have liquidity in covering daily expenses. This is because insurance payments are usually settled rather quickly, and claims are processed within 3 to 5 days[1] - much faster than the 5 to 7 weeks[2] required for probate applications under estates with a will.

2 Separate management of retirement savings and estate

Estate owners can first set aside adequate retirement savings to secure a preferred standard of living in their retirement life. Separating your retirement savings from the wealth your wish to pass on means more effective financial management for yourselves, and hassle-free distribution of assets for beneficiaries.

3 Smooth transfer of wealth and asset distribution

Policyholders can appoint and change beneficiaries at any time or alter the ratio[3] of insurance payments allocated to each beneficiary – all of which will be kept strictly confidential.

4 Full say in distribution of assets as you prefer

Estate owners may expect their children to inherit the family business. However, if a family business cannot be split up, life insurance may help create liquidity from the full estate, giving owners the option to distribute wealth equally, if they prefer. The hypothetical family wealth transfer case on next page will help elaborate on this.

1 This may vary from case to case and is subject to terms and conditions set out in the policy provision
2 Public information on Probate Registry page of the Hong Kong Judiciary, 27 November 2017
3 Appointed beneficiaries are subject to underwriting requirements, e.g. insurable interests

5
Insurance Helps Keep Accord in Family Inheritance Planning

A case of inheritance planning – how to split up tangible assets and business entities?

Mr and Mrs Chow started a snack shop when they were young. Business thrived under their efforts over the years, culminating to a fine brand and ten branches across Hong Kong and Shenzhen today. They have a son and a daughter who have their own talents. The son has set up an art studio with his friends, where he pursues art education. The daughter is in marketing business, and very good at business promotion.

Having set a solid foundation for their business, the Chows plan to retire at the age of 60, so they could enjoy life. They have total assets worth HKD30 million, of which HKD12 million have been designated as their retirement funds. They hope to transfer the rest – a business worths HKD8 million and liquid assets of HKD10 million equally between the son and daughter, so that each of them will inherit HKD9 million worth of assets.

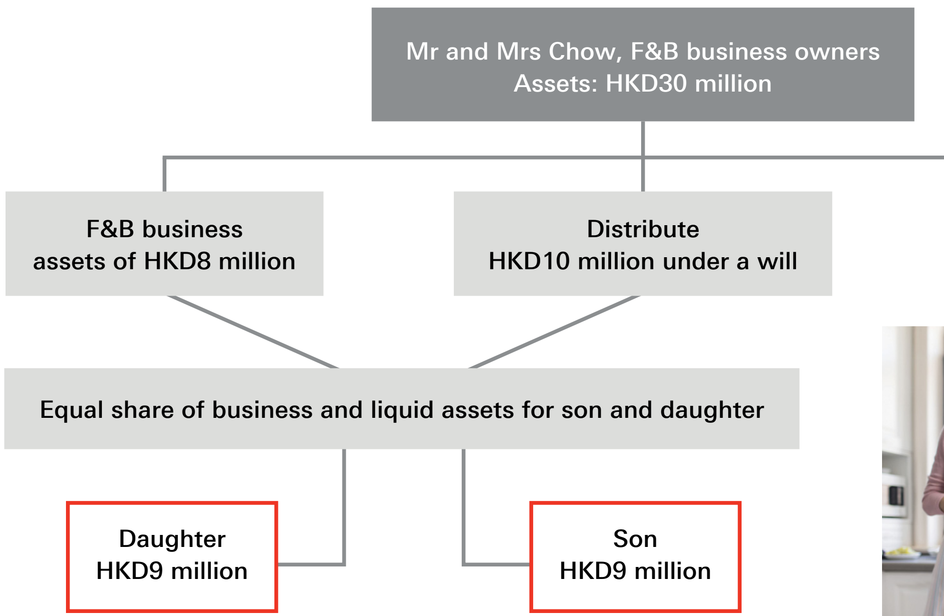
Without any inheritance plan

Asset value: HKD30 million

Retirement reserves: HKD12 million

Son inherits: HKD9 million

Daughter inherits: HKD9 million



A survey found that over 70% of mainland businesses are inclined to look for a business successor within the family. However, only 6% have a succession plan in place. No Chinese family business has ever been listed among the world's 100 oldest family businesses[1]. To break the myth of "wealth never stays with a family for more than three generations", let's use this family as a hypothetical case to understand the entirely different results when using different ways of inheritance planning.

1 Extract from the research report "The future of Chinese Family Business" by Tanoto Center for Asian Family Business And Entrepreneurship Studies, 13 September 2017

Greater flexibility and enhanced assets

If Mr and Mrs Chow use life insurance in their inheritance planning, they would see very different results. Mr Chow can consider taking out a lump-sum premium* life insurance policy with an insured amount of HKD20 million. The arrangement will enable equal distribution of his assets between the son and daughter, each of them receiving HKD14 million, while the family business will be transferred to the daughter. There is no need to split up business assets, and the distribution of wealth will be equal. What's more, retirement funds for Mr and Mrs Chow will increase to HKD15.3 million, about 28% higher than the amount without an insurance plan. The undivided family business can be transferred to the daughter whose ambition is to further develop the restaurant brand. On the other hand, the son will be able to receive a bigger payment and devote all energy to his art profession.

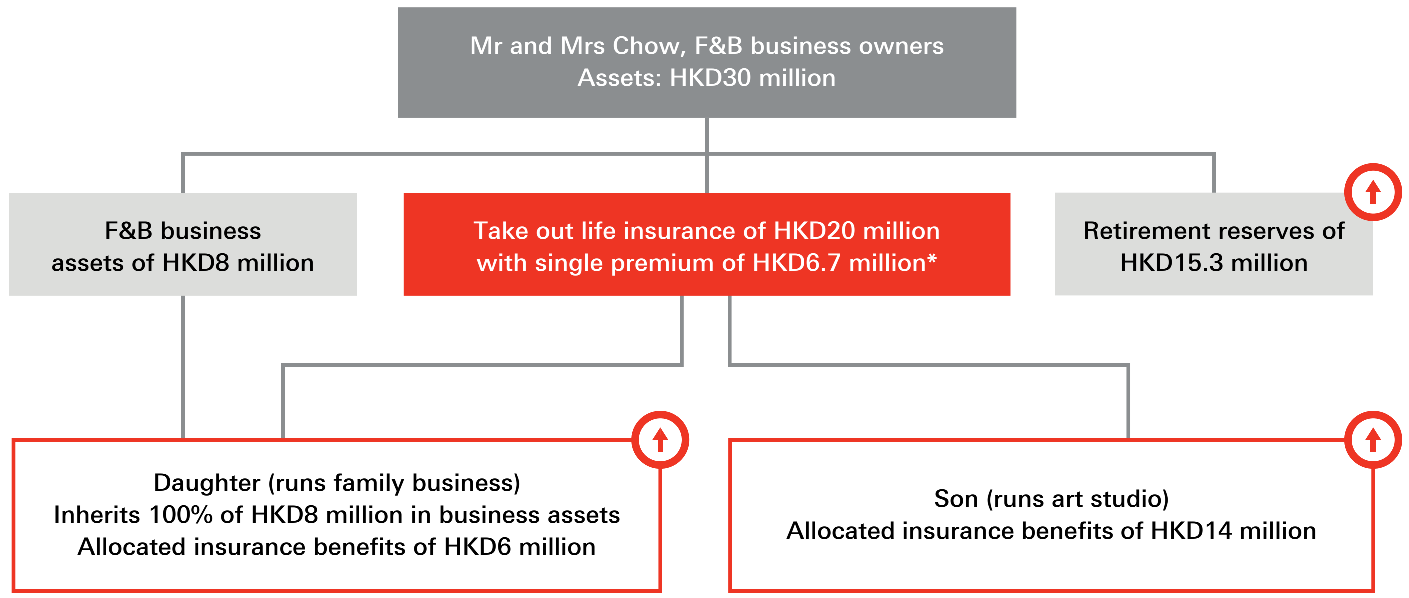
Planning with insurance

Retirement reserve boosted:

by about 28%

Asset inherited by children:

by about 56%



From the above case, the biggest merit of life insurance in inheritance planning is the ability to distribute wealth equally between the two beneficiaries. It also increases liquidity and boost the total value of inheritance. Besides, the parents will be able to segregate their retirement funds from the wealth to be transferred. This puts their minds at ease, as it will not be necessary to worry if their spending in retirement might affect the inheritance asset pool.

*Taking out a life insurance policy of HKD20 million at a single premium of HKD6.7 million. Premiums can also be paid over two years at HKD3.4 million per year. At similar premiums, the sum insured will vary with different products. Premiums are set according to the gender, age, smoking habit, sum insured and underwriting considerations of the life insured. Please refer to product information sheets for details.

6
An Inheritance Story

Engineer Turns Traditional Restaurant into an Innovative F&B Giant

Simon Wong Kit Lung

Chairman and Chief Executive

Lucky House Group and

Kabushikigaisha Group

Simon Wong, registered engineer of the United Kingdom and Australia, has worked in international consultation firm, government and listed company before leaving the profession that offers both good salary and job stability. He did so to take over management responsibilities of Lucky House Group (LHGroup) from his father. In this new role, Simon quickly turned things around, rebuilding LHGroup as a famous, dynamic, multi-branded F&B giant, demonstrating strengths in business succession and innovation.

Lucky House was already a well-known Chinese F&B brand during the 1980s to 1990s, with about 30 branches in its heydays. When Simon joined the group in 2007, it was reduced to only 6 branches. However, driven by a zest to revive the declining family business, he set out to establish new business models - from "MouMouClub all-you-can-eat shabu-shabu" to "Gyu-Kaku" to "On-Yasai" and to "Yoogane", etc. All of these are very successful Japanese and Korean cuisine brands in the Hong Kong market today. Lucky House was also the first local F&B group to promote shark-free and green wedding menu, opening up a new path for traditional Chinese restaurants.

Q: What makes you decide to take over responsibility to run your father's business? How did you build up mutual trust between the generations?

A: Since I was a child, my father used to tell me I should stay away from F&B business. He wanted me to become a medical doctor - because he had to work 18 hours a day in a restaurant, he didn't want his children to follow his footsteps. That's why I became an engineer – which is in line with his expectations. However, an opportunity for change came in 2007, when my father, then in his 60s, talked to me about ways to salvage his declining business. Other shareholders of the family business were also present. Seeing what's on the minds of these folks who have known me since my childhood, I decided to ask them one straight question: "Do you wish to continue or close down the business now?" This sparked off some discussions, but before long they came back with a unanimous "yes" to continue with the business that they still love. Then I put to them a second question: "We must change our ways if we continue in this business. The process will inevitably be painful. Are we ready for it?" They pondered over these word for some time, and finally my father said to me, "Simon, if you take this role, you will have our full support in the reforms". This set the tone and clear direction – we were ready to change. This also formed the basis for mutual trust among the shareholders, and hence my decision to take my father's role in the family business.

Q: What is the biggest difficulty in managing a restaurant group handed down from the older generation, as against being an engineer? How did you resolve it?

A: It was not an easy decision for me and my family at all - to give up high salary and run an F&B business that I knew nothing about. I was new to the business, but I wanted to catch up fast and let my colleagues know I mean business. So, I enrolled in a course designed for Chinese F&B management, where I got to know business peers and built up my own network. Besides, in order to lower risks, I set boundaries for my reforms, initially within a “special administrative region” – i.e. reforms will be implemented only in “The Banqueting House” and “My Hakka”, our two new dining outlets in Kowloon Bay. I was free to implement bold and creative measures, and try out new concepts in a controlled environment, without impacting other branches. As a result, The Banqueting House gained wide publicity in local and international media for being the first shark-free Chinese restaurant in Hong Kong. Its good sales performance was the best credentials for me to win the trust of shareholders in the older generation. The other venue, however, closed down in the end. This experience was invaluable to me as a business starter. It was also vital for drawing lessons that prepare me for managing the group as a whole. Management is about talent, financial control and time management. Once you are in gear managing these areas, with zest and dedication, you are ready to inherit the family business and even make it better.

Q: How do you move with the times when you are inheriting a traditional business? How do you make creativity go hand in hand with an inherited business?

A: Creativity is always the key for Chinese restaurants – from dim sum carts to dim sum cards, you change the way you sell. In 1986, Lucky House started a sushi bar at its Waterloo Road branch where sashimi dishes are offered. This “avante garde” idea came from my father’s creative mind. I just borrowed from him and make it happen in today’s F&B market. Even at this age, my father learned how to chat in the family group on smart phone recently. His courage and eagerness to try is no less than young people. I am inspired by his ceaseless quest to achieve and the creativity to broaden horizons for the F&B business.

Q: How did your father’s values inspire your own operation concepts?

A: When I was a child, my family was poor and lived in a small room. Life was tough for my father and uncles who worked day and night at the restaurant, leaving not much spare time for themselves. Knowing the hardship, they never pampered me as “heir to the business”. My father said “If I had a bowl of rice, I could share half of it with the hungry. And, if I have many bowls of rice, I could help to feed many more people.” I can recall that when a school tried to raise funds for a new campus, my father simply gave all his savings - $2,000 at one go. The spirit of charity was instilled in me at a young age. This also inspired me in promoting the “Heart Warming” Suspended Meals Scheme at our group outlets. We delivered over 97,000 suspended meals within 3 years under this initiative. We also put corporate social responsibility into action and worked with environmental groups to promote shark-free wedding menu and green menu. I think all of these originate from the spirit of giving in the previous generation.

Q: How do you apply the professional skills of an engineer in managing F&B business?

A: The older generation learn their skills from their work. They also pass on experience verbally rather than systematically. They are happy to see my efforts to apply the systematic management thinking of an engineer in our business development. To enhance efficiency, I established Kabushikigaisha Group which is separate from our Chinese cuisine business. We hired a new professional team to manage Japanese, Korean, and other Asian food restaurants. They are sent on study trips to these countries to gather useful market intelligence. Information from these trips serve as basis for us to build fine new brands back in Hong Kong. Although this means higher cost input, the professional knowledge acquired, as well as the brands we were able to source are very fruitful results in their own right. These are brands of popular local and international restaurant chains, including Gyukaku - the Japanese barbecued meat store and On-Yasai - the shabu-shabu store. Our emphasis on professionalism and good quality will work out well in attracting customers.

Q: How do you educate the next generation about money? Do you have a succession plan yet?

A: At one time, I wanted to give my daughter a new water bottle. But she said the one she had was perfect and there was no need to change to a new bottle and cause wastage. She inspired me with her cherishing attitude. When we go to the supermarket, we would share our views about prices and how to make smart purchases. She always shares her snacks with classmates – she’s probably more generous than her father and grandfather! My wife said my daughter does know how to share. Perhaps she should also take care of her own needs. She is still a child and it’s too early to say whether she would inherit the family business or have her own career. We just hope that she would always know how to care and cherish.

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7 What the Experts Say

Common Reporting Standard and Tax Transparency

Patrick Yip
Tax Partner, Deloitte China

Candy Chan
Tax Partner, Deloitte China

The Common Reporting Standard (CRS) issued by the Organization for Economic Co-operation and Development (OECD) in 2014 became effective in 2016. Now covering over 100 countries and territories, the CRS serves as a mechanism for participating jurisdictions to exchange financial account information. In accordance with local CRS laws, financial institutions in member jurisdictions are required to collect account and financial information of accountholders who are identified as non-resident taxpayers. These institutions should report annually to local tax authorities, any financial account information about such accountholders, while the information may be transmitted to tax authorities of the accountholders' tax residency (if the tax residency jurisdiction is a reporting jurisdiction) to enhance tax transparency and help combat transnational tax evasion. By now CRS has been implemented in Hong Kong for over a year. Deloitte China Tax Partners Patrick Yip and Candy Chan shared the following tips for customers when dealing with CRS.

In accordance with Hong Kong CRS rules, financial institutions have the responsibility to ascertain the tax residency of all customers. For new accounts opened with any financial institution after 1 January 2017, customers would be requested to provide a self-certification which facilitates identification of tax residency. For pre-existing accounts, financial institutions may (for identification and confirmation purposes) request accountholders to provide self-certifications, if any doubts arise regarding their tax residency in the course of due diligence.

As financial institutions would perform due diligence on customers, individuals and corporates alike should pay attention to certain concepts that may impact on them. Patrick Yip explains, "Individuals should pay attention to the term 'tax residency', as its definition may vary in different jurisdictions. It is wrong to assume that one is not a tax resident if one does not have to pay tax in a certain jurisdiction. Tax residency is a concept under tax law whose definition is quite different from 'residency' in general. It is possible that one may be tax resident in a number of jurisdictions. For example, a Hong Kong permanent resident working in Australia may be tax resident both in Hong Kong and Australia. Another thing to note is how different jurisdictions define 'financial account'. It is generally believed that all banking businesses and products come under CRS rules. However, it should be noted that 'financial account' under CRS covers only financial assets held in the account at the financial institution, while real estate investments and property insurance are excluded."

On the other hand, corporate customers should understand their positions under entity classification and jurisdiction of residency, as disclosure requirements do vary with different classifications. For "passive non-financial entities", accountholders will be required to disclose in their self-certifications details about the jurisdiction of residency of the controlling person in such entities.

The general public will be concerned about what kind of information would be reported and exchanged with tax authorities. Under Hong Kong CRS rules, financial institutions are required to file with the Inland Revenue Department the basic information of the accountholders and their financial account information, including account number, account balance or asset value at year-end, as well as interests, dividends and the total amount of proceeds from sale of financial assets for the year. However, not all reportable information would be reported and exchanged. The financial institution will report information about accountholders only when they are identified as non-Hong Kong tax resident, and where the relevant tax jurisdiction is a reporting jurisdiction which is signatory to an agreement for automatic information exchange. In this case, the information will be reported to the Inland Revenue Department and exchanged with the relevant tax authorities.

If a new customer refuses to provide a self-certification as requested, the financial institution may refuse to open an account for such customer. If holders of pre-existing accounts refuse to provide information about tax residency, the institution may, in accordance with due diligence rules under CRS, report financial information of such accounts. Time and again, the OECD has called for efforts to curb attempts to circumvent CRS rules. A number of guidelines have also been issued to this effect. Financial institutions generally believe local regulators would gradually roll out relevant rules in line with OECD objectives and to promote the effective implementation of CRS globally.

For details of the CRS, please refer to http://www.crs.hsbc.com/en/rbwm/hongkong and Inland Revenue Department, HKSAR http://www.ird.gov.hk/eng/tax/dta_aeoi.htm, or visit the OECD website http://www.oecd.org/tax/automatic-exchange/ (English version only).