

# Planning a legacy for your estate

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**“E**state planning” has long been a buzzword in financial planning, which is the process of organising one’s assets and preparing a smooth transfer to loved ones, in the event of incapacitation or death. Nowadays, one may also come across the term “legacy planning” which can encompass even more abstract concepts, such as crafting a family narrative beyond physical assets or establishing philanthropic causes. While the former evokes death as a trigger point, the latter can be put in place as early as possible to create a legacy even when one is alive.

Wealth transition has been well-established for decades in Europe, but this demand is especially acute in Asia where we are seeing a massive wave of wealth transfer in the next two decades as first-generation wealth creators look to hand over the reins to the next. According to 2020 New Fortune Magazine’s 500 Richest List, ~60% of the wealthy are in the 50+ age bracket, which means that they will be undergoing some form of family succession in the next 10-20 years. Their success is often built on entrepreneurship, and thus they may lack the knowledge or familiarity of wealth management services, leading to the risk of inadequate family estate planning.

## Reasons for planning legacy:



### Smooth transfer of assets to loved ones

- To express specific wishes, and be aware of applicable inheritance laws
- Avoid probate – a legal process to review the assets of a deceased person, to determine inheritors and distribute to the rightful beneficiaries, as supervised by a probate judge
  - This could be a lengthy and expensive process that may extend to years in case of contest. Fees are payable out of estate, which would mean less money for the heirs
  - Liquidity is locked up at a time when it's most needed, which could lead to destituteness of the deceased's loved ones, which is certainly not an ideal scenario. For example, a wealthy individual who passes away without a will, i.e. died intestate, his assets will be frozen at financial institutions until clear legal instruction is provided on its distribution. Imagine his widow and young children, in addition to the grief, would have to struggle with lack of accessible funds for daily expenses or even working capital for his business
  - Keeps family matters and financial information private - as probate is a public proceeding, records of assets, liabilities, beneficiaries and personal representatives are made public



### Reduce family strife

- Guardianship of minors
- Protect family members with special needs
- Avoid contest on will and personal representatives



### Facilitate business succession

- Ensure an income source for the beneficiaries of the deceased
- Avoid forced liquidation or dispute and minimise impact to the company, in the event of the owner's critical illness, disability or death



### Asset Protection

- Insulate assets from claims of creditors, and/or extensions of the family in a legal manner without perjury or tax evasion



### Philanthropy

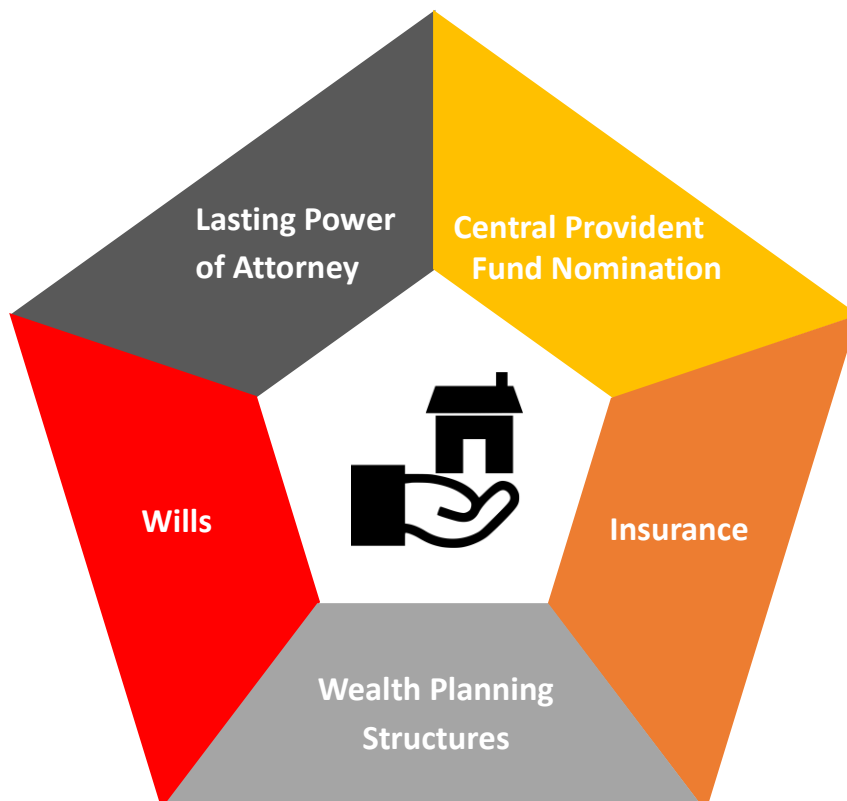
- Make a meaningful difference to an important cause
- Charitable giving also offers tax benefits. Some considerations include choosing the right organisation, finding the right way and timing to give, determining the type of assets for donation



### Tax optimisation

- Multi-jurisdiction considerations due to different domiciles of the assets, settlor and beneficiaries, which may be subject to various laws. Improper/lack of planning could result in a substantial portion incurring significant tax liabilities

### Common estate planning tools:



## Lasting Power of Attorney

In case one loses mental capacity, a person “donee” is designated to make decisions on one’s behalf, in the areas of Personal Welfare as well as Property & Affairs.

## Wills

A legal document spelling out how assets are to be distributed upon demise. This is usually affordable to draft, can be amended/revoked upon any change in circumstances, and considered the most basic form of planning required for straightforward assets. However even when there’s a will, a grant of probate is still required, though the process may be shortened and less costly.

## Central Provident Fund (CPF) Nomination

In Singapore, where there is mandatory social security savings scheme for working citizens and permanent residents, there may be a significant accumulation in the CPF during one’s lifetime. These funds cannot be distributed through a will; therefore, one should submit a CPF nomination to designate the nominees and the proportion for each recipient. Without which, the funds will be distributed by the Public Trustees’ Office according to the relevant intestacy laws

- Muslim inheritance law, also known as faraid
- For an individual who has neither will nor heir, any remaining assets go to the state (in a process known as escheatment)

## Insurance

A policy allowing beneficiaries to receive financial compensation in case of unfortunate events for the insured

- Paid directly to the beneficiaries, does not form part of the deceased’s estate, fast claims within a few working days
- Tax benefits
- Can be structured with possible investment savings element
- Flexible payout option - can be paid out in tranches which prevents moral hazard for young heirs who come into money and may not be capable of managing large wealth all of a sudden

## Wealth Planning Structures

- Manner of holding immovable property – single name and joint name
  - Joint tenancy and tenancy-in-common - the former automatically absorbs the deceased owner's share of the asset, typically applies to immovable assets such as property and business. Under the latter framework, the asset can be distributed to their designated beneficiary, as set out in a will or other structures.
- Trust vs Foundations – depending on common law or civil law jurisdiction
- Private investment companies – allow for mixed ownership structures where shareholders own shares, while directors have control but no ownership. It separates ownership from management, which could be applicable to instances where parents still retain ownership but appoint their children or trusted professionals to manage the assets.
- Private label funds – these structures can be set up exclusively for wealthy families, often entailing detailed planning based on specific requirements.
  - Maintain privacy
  - Hold multi-asset classes, including companies, real estate as well as liquid financial instruments
  - Sub-funds may be created for various beneficiaries with different asset allocations, while allowing a consolidated view on the master fund level
  - Many have started to explore using variable capital companies (VCC) in Singapore for the above benefits

It is important to note that depending on individual circumstances and requirements, a combination of tools can be employed to achieve maximum benefits.

### The right time?

It is advisable to start legacy planning as early as possible to lay the groundwork, to minimise dissatisfaction, perceived injustice, uneven allocation of responsibilities among family members. If left till the last minute, it exposes the risk of a contest on the estate planning validity based on grounds of execution problems, testamentary capacity, fraud and undue influence. The recent pandemic has prompted many to confront the once-taboo subject of death as one never knows when disaster may strike. The confinement has allowed people to rethink about life's priorities, and succession planning which may have been left on the backburner.

The process of asset transfer is often far from simple for the wealthy, as there may be multiple parties involved with different agendas and conflicts of interests. As such, it is of paramount importance to work with trusted financial professionals who have had such experience in catering to the stringent needs of these families, to ensure that the right solution be found amidst growing complexity of the financial markets.

No matter how influential and wealthy one is during his lifetime, there is always the eventuality of having to pass on one's legacy. If one succeeds, life's goals are fulfilled. If one fails, decades of toil would have been in vain.

**SingAlliance** is an independent wealth manager with presence in Singapore, Hong Kong and Switzerland. For more information on legacy planning, please [get in touch with us](#).

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