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Family Governance – An important planning instrument for affluent international families in times of constant change

The corona pandemic has made us all aware within a very short time, how vulnerable mankind, despite of all its achievements, actually is. Concurrently, the pandemic has also significantly slowed down our daily routine due to the various restrictions that were introduced. Notwithstanding the fact that this slowing down of our daily lives is perceived by many as an unwelcome restriction, one can nevertheless also gain something beneficial from it. In particular, if one considers that not only man himself, but also his wealth, are vulnerable. To protect wealth and to ensure its transfer to future generations, it is important for families worldwide, especially in light of unexpected events and developments like the corona pandemic, to take something positive away from the slowing down of our daily lives and to evaluate whether their wealth is already sufficiently protected with a view to effective asset protection and family succession, in order for it to withstand uncertain times.

Wealth can be vulnerable in many different ways. Through instable stock markets, governmental restrictions on the one hand, but also through risks that originate from within a family. Such risks materialize for example as a result of complex family relationships, in cases of divorce, illness, unexpected deaths, while succession has not nor not sufficiently been provided for at the same time. Internationally mobile families as well as family companies are among the most affected, even though they are sometimes not even aware of this. Risks manifest themselves in international families externally through the collision of different legal orders and internally through the collision of different family generations.

Especially in family companies corporate governance is usually firmly in place, but family succession planning is more often than not lagging behind. This poses a great risk for wealthy international families and represents an undesirable condition. If a family does neither address, nor plan succession matters, least expected events, like for example death or incapacity of a family member will bring about the overdue decision. Whether this decision will then be the right decision at the right time, is questionable. Change within a family, be it through external or internal events, simply cannot be excluded. It is however crucial, how and also at which point in time a family deals with this kind of change.

Family Governance is a proven tool for wealthy international families to address such questions. It encompasses numerous methods to bring various generations of family members to the table to discuss questions of international wealth and family succession, as well as asset protection in order to reach a regulation that is accepted by all generations. A family needs to be aware that decision-making will become all the more difficult, the more time passes by and the more generations sit at the table.

In such situations the calling on external, neutral expert advice may prove to be helpful for the family in reaching their decisions. When applying family governance techniques, a family with the personal and professional help of experts takes stock of its assets that shall undergo asset protection and family succession planning, defines its common values, interests and goals and at the same time divides various tasks and competences among the individual members of the family. At the end of the process, the family reaches a decision on which route it wants to embark with a view to wealth and family planning, which in some cases may even result in the conclusion of a so-called family charter.

The possibilities offered by successful family governance are manifold, in particular, as they guarantee confidentiality and can be tailored to the needs of an individual family. Family governance at the same time can be successfully combined with family office services for the family in question, for example in the medical or educational sectors. Family office services enable the advisors of a family to get acquainted with the individual family members as well as with the overall needs, values and goals of the entire family. This creates trust between both the family and its advisors and represents a good starting point for the expansion of these initial services to family governance provided within the framework of a single or multi-family office.

With a view to family governance, one must also consider using private as well as charitable foundations. Liechtenstein private foundations and trusts are flexible, internationally acknowledged as well as apt instruments for asset protection and family succession, be it into individual assets or family companies. Liechtenstein law in this respect also provides for the set-up of mixed family foundations that allow families to pursue matters of international family succession, asset protection and charitable goals in one single foundation.

But also with a view to the set-up of a family foundation, it is crucial that the family has already taken time to reflect on its family values and goals and has set up an approximate schedule of how these goals are to be implemented and achieved. For all of these reasons, the establishment of a family foundation or a trust should rather conclude an already completed family governance exercise than starting out with it. The family foundation should serve for the achievement of a concrete goal and not represent an attempt to define such a goal through the establishment of a foundation. If a family tries to solve eventual family conflicts through the establishment of a foundation, these conflicts will merely be shifted to the level of the foundation, but will not be resolved on a long-term basis.

Change, be it within or outside of a family, is inherent to any successful planning. If a family however actively accepts the process of change and helps shape it, this will lead to the implementation of successful family governance. Family governance is a time-consuming process, but a definitely worthwhile and also a very important one for every wealthy international family. This in particular with a view to international regulations becoming more and more stringent and individual jurisdictions becoming exchangeable due to the diminishing tax benefits. What will however always remain vital despite these international developments is the protection

and the safeguarding of one's own family and the long-term provision for family and wealth succession in cooperation with trusted advisors and experts, who, due to the provision of personalized services, know the family and its needs already very well. The sooner a family accepts and adopts the process, the easier the planning will be.

The time of the corona pandemic with its manifold restrictions in daily life have fortunately shifted family matters back into the spotlight. The concurrent slowing down of life would especially now give international families and its members the momentum as well as the necessary time to address questions of family governance in order to provide for their long-term regulation.

For additional information regarding this article, please contact the author, Dr. Johanna Niegel.

A list of our services as well as additional technical contributions can be found on our website at www.atu.li/en/publications.

We would be pleased to discuss with you any questions concerning family governance that you might have and to analyze your individual situation and needs together with you.

Sincerely,

Allgemeines Treuunternehmen

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