The International Family Offices Journal

Editor: Barbara R Hauser

Editorial

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From privacy to transparency – an update on global steps to improve tax compliance and prevent money laundering

Henry Brandts-Giesen and Daniel McLaughlin

Reflections on working with multigenerational families and family offices on wealth transfer Raimund Kamp

Trusts and settlors – can a settlor have too much power?

Dawn Goodman

An interview with Sue Nickason of Dart Family Office

Putting family at the core of the family office
Andrew Keyt and Greg McCann

The role of family offices in the responsible stewardship of wealth Gina Pereira and Philip Marcovici

The new draft guidelines on taxation of trusts

Nicola Saccardo and Gabriele Colombaioni

Onshoring your offshore trust to the United States Myriam Soto

An interview with Tsitsi Mutendi, co-founder of African Family Firms

Book Review
Family Business and Responsible
Wealth Ownership: Preparing the
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News sectionSelection from STEP News Digests





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Contents

Volume 6, Issue 3, March 2022

Editorial	_ 3 ′
Barbara R Hauser	1
From privacy to transparency – an	_5
update on global steps to improve tax	(
compliance and prevent money laundering	1
Henry Brandts-Giesen and Daniel McLaughlin]
Reflections on working with	. 14
multigenerational families and	(
family offices on wealth transfer	
Raimund Kamp]
Trusts and settlors – can a settlor	
have too much power?]
Dawn Goodman]
An interview with Sue Nickason	. 31
of Dart Family Office	:
Putting family at the core of the	. 33
family office	
Andrew Keyt and Greg McCann	
The role of family offices in the	. 36
responsible stewardship of wealth	
Gina Pereira and Philip Marcovici	

The new draft guidelines on	_ 44
taxation of trusts	
Nicola Saccardo and Gabriele Colombaioni	
Onshoring your offshore trust	47
to the United States	,
Myriam Soto	
An interview with Tsitsi Mutendi,	_ 54
co-founder of African Family Firms	
Book Review	_ 57
Family Business and Responsible	
Wealth Ownership: Preparing the	
Next Generation edited by Iraj Ispahani	
Peter Leach	
News section	_ 59
Selection from STEP News Digests	
-	

Welcome to the March 2022 issue of The International Family Offices Journal

Barbara R Hauser, Editor-in-Chief

Again, continuing thanks for all the positive feedback on our Journal. We love hearing that you look forward to each issue, and that many read it cover to cover. Remember, this is for the entire family office community – we solicit contributions and comments! As the word continues to spread, we enjoy receiving great offers to write for us. For this issue we received more excellent articles than we could fit in, so we are already starting to fill the June 2022 issue. We are now in the sixth year of the Journal! We did manage, in spite of covid, to have a small in-person celebration reception at the Pitcairn New York office in mid-December. We hope for more in 2022.

The focus of the Journal

We continue to feature articles from leading experts in the field on a range of topics including the variety of family office models and structures, governance, investment approaches, succession planning, charity projects, family communication and consensus, and next generation issues among others. A key feature of the Journal is its international approach. We value our independence and our commitment to offering valuable content without any conflicts of interest.

In addition to heavyweight substantive articles, we regularly feature in-depth country reports, profiles of family offices, interviews with industry leaders, a luxury corner, technology tips, book or film reviews, relevant news alerts from the Society of Trust and Estate Practitioners (STEP), and reflections by those who have grown up with wealth or advise those who have done so and what it has meant to them or their clients.

In this issue we are proud to include another fascinating variety of in-depth articles. We hope you enjoy them!

We begin with an excellent summary of the landscape of privacy, transparency and confidentiality. This is a topic of great concern to wealthy families all around the world. In their article "From privacy to transparency – an update on global steps to improve tax compliance and prevent money laundering", the authors, Henry Brandts-Giesen and Daniel McLaughlin, from New Zealand, begin with an acknowledgement of how much our privacy has been encroached upon in recent times:

What this wholesale erosion of privacy means for our society as a whole remains to be seen. This article is intended to provide some historical context and weave together the various strands to provide an overview of the current compliance landscape and offer some thoughts as to what might happen next.

They cover the history of the various rules including the current complicated situation and some predictions of what might happen in the future.

Next we have a collection of practical insights from working directly with a number of families by Raimund Kamp, from the Netherlands – who is also a member of our editorial board. He offers his own three mandate advisory concept: an expert adviser, facilitator and coach. This concept offers specific guidance for each role and connects the dots between hard and soft issues in multigenerational families. He ends with a detailed description of client games he has developed including 'walk on feathers' which involves a series of large tiles on the floor. The client steps on each tile in turn ... and you can read the rest. Some very deliberate changes in approach from his early days as a tax adviser.

For the increasing number of global families that include trusts in their portfolios, Dawn Goodman from the United Kingdom contributes a thorough legal analysis of the extent to which a settlor can retain control over the trust assets. This is an issue that is always of great interest to settlors. As she notes at the beginning: "There is almost no limit to the ingenuity which can be applied to the draftsmanship of a trust but it is always worth going back to basics to consider what the essential components of a valid trust are. If these are not borne in mind, the 'trust' may not be valid ...". She details the cautions and ends with this advice:

Trustees and lawyers around the globe should be considering the structures they manage or advise on in light of these risks and take specialist advice on what, if anything, can be done in the particular circumstances of the trust. Such a review could well be combined with assessing the suitability of the structure to provide for the next generation or generations to whom assets will likely be transferred from the baby-boomer generation within the next 30 years.

A frequent Journal topic is to evaluate various jurisdictions in terms of locating a family office in that jurisdiction. In this issue we have an interview in support of using the Cayman Islands. In this interview with Sue Nickason of the Dart Family Office, we began with a question about the origin of the Dart office, learning that the Dart Family Office was established in the Cayman Islands in 1993. She explained that Ken Dart and his family first visited Grand Cayman in the late 1980s and fell in love with the island. Recognising the opportunities Cayman could offer, both as a place to make his family home and base his family office, he opened a small investment office in 1993 with three employees. Some 28 years later that investment office has grown to become the base of Ken Dart's global operations and Grand Cayman continues to be home to his family.

In the interview there is genuine enthusiasm for Cayman as a jurisdiction. The Dart office itself has grown to some 1,000 employees counting the Dart company operations based in Cayman.

The Dart office is considering forming a Cayman Islands Family Office Association, and welcomes inquiries.

In terms of operating a family office, our next article, by Andrew Keyt and Greg McCann from the United States, promotes a view that the family should be of central importance. In "Putting family at the core of the family office", they begin with the observation that for family offices: "The purpose of a family office often centres on wealth management, investment advising, wealth transfer and tax management". While these are undoubtedly important services, they ask "are they a reason for being?" They warn that family offices without a sense of purpose may not survive. They offer tools for creating a family purpose for the family office. They suggest applying "design thinking" to develop a purpose that "cannot be outsourced". The result? "Developing a strategy of putting the family at the core of the family office – instead of investments alone - helps both the family and the family office survive."

Another frequent issue for family offices is the stewardship of family wealth, and how to instil that value in the following generations. Gina Pereira, from Bermuda and Philip Marcovici, from Hong Kong, present a detailed model of "Responsible Stewardship of Wealth" (RSW) and cover this subject in detail, based on extensive research. Of particular interest in their article is the focus on how the family office can assist in this endeavour. In "The role of family offices in the responsible stewardship of wealth" they describe some of the work that has been done recently by STEP (Society of Trust and Estate Practitioners) in its Thought Leadership Group on RSW that resulted in a Guide that is being used to generate additional

conversations on this subject in the community. They would welcome input on this important topic.

Next we turn to a more technical subject – the taxation of trusts in Italy, by Nicola Saccardo and Gabriele Colombaioni both based in the United Kingdom. In "The new draft guidelines on taxation of trusts", the authors explain three crucial topics covered by the draft:

- the inheritance and gift tax treatment of trusts;
- the income tax treatment of distributions from non-resident opaque (i.e. not looked through and not transparent) trusts to resident beneficiaries; and
- the reporting obligations for resident beneficiaries of non-resident trusts.

The authors hope that many of these critical issues will be addressed in the final guidelines.

The next article addresses an interesting strategy. The author, Myriam Soto, proposes that there are advantages to bringing many offshore structures to the United Sates. In "Onshoring your offshore trust to the United States", she argues first that in light of the increasingly aggressive disclosure and enforcement efforts and fears around safety in certain countries, the United States has become a relatively more appealing jurisdiction. Reasons to have a trust situated in the United States include: as a result of the death of a non-resident trustee all of the beneficiaries are US taxpayers; a number of states within the United States have attractive trust legislation; obtaining credit from a US institution is made easier; and the avoidance of negative publicity that often attaches to offshore entities. The article steps through the numerous tax and regulatory issues. The author concludes that:

However, as appealing as such onshoring may seem, whether doing so by decanting or migrating the trust, the devil is in the detail. Experienced counsel is critical in order to avoid incurring unnecessary taxes, professional fees and even litigation among family members.

Finally, we have our first contribution from Africa: an interview with Tsitsi Mutendi, the co-founder of African Family Firms (AFF). She grew up in an entrepreneurial family. As a third-generation family business owner she had additional roles upon her father's death in 2018 – leading to her view of the need for an organisation. Currently they hold three major annual events and hope to have AFF chapters in each of the 54 countries in Africa. We will look forward to more updates in future issues.

We hope you enjoy this issue. We love getting feedback so let us know!

Barbara Hauser



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