CMS Law . Tax

Private Clients

Security for you, your family,
your business and your wealth

Content

How we provide security for you, your family, your business and your wealth

We advise and represent entrepreneurs, managers, wealthy individuals and their families, as well as banks, asset managers and family offices, in the fields of wealth and succession planning. At a time of economic, political and regulatory uncertainties and increasing family, professional and ideological mobility, CMS supports you with specific strategic, practice-orientated and cross-border solutions.

Our private client specialists have cross-disciplinary expertise in the fields of inheritance, family, real estate, corporate and tax law. In these fields, we also advise and represent clients in contentious proceedings before national and international courts and other bodies.

In addition to their expertise and proven professional competence, the lawyers of our private client teams are characterised by personal values, which, especially in the area of private clients, are the essence of sustainable relationships based on mutual trust.

Our advice focuses on the client and his needs. We are committed to providing tailored solutions addressing the specific concerns and requirements of your individual situation, your family and your business and your succession plans.

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Our range of services for private clients and entrepreneurs especially include:

- Estate planning, estate administration and devolution, will execution
- Wills, inheritance agreements, forced heirship issues
- Matrimonial property agreements (prenups)
- Gifts and advancements on inheritance (optimised with regard to taxes and forced heirship rules)
- Contingency plans, living wills and powers of attorney
- Legal wealth planning and structuring
- Foundations and trusts, corporate foundations, family partnerships and other independent asset-holding structures
- Mergers and acquisitions, shareholders’ agreements, corporate law succession plans
- Tax planning, audits of structures, assistance in sophisticated tax matters
- Family constitutions for complex entrepreneurial families
- Advising banks, asset managers and family offices
- Litigation, arbitration and alternative dispute resolution including shareholder and financial disputes
- Relocation, residence, domicile and work permits, naturalisation and denaturalisation
- Associated matters such as employment law issues, housing & real estate, art management, organisation of family meetings

There is no freedom without security.

Wilhelm von Humboldt (1767–1835)

Wealth and succession planning

Many are hesitant about planning their own wealth and business succession – jeopardising the continuity of the family wealth and business. In fact, it is sensible and professional to make use of personalised legal and tax advice. By this means you are able to manage your financial and estate planning concerns in an optimal manner and ensure the preservation of family wealth.

Due to our expertise in all legal areas and industry sectors, we are able to provide you with strategic solutions and minimise your succession risks. Our advice covers all succession and wealth related questions. However, in general, the focus lies on business succession, international succession planning and estate administration and devolution.

Business succession

For family entrepreneurs it is often of utmost importance **to preserve the family business for the next generation**, safeguard the independence of the family business and ensure that its management is in good hands. Implementing these goals in the best way possible is the purpose of our advice to you and your family.

If a family internal succession is not an option, many alternatives are available, such as the sale to management or investors, the transfer to a corporate foundation or an IPO.

Focus:

— Corporate law succession clauses
— Wills, inheritance agreements and matrimonial property agreements
— Restructuring, management investments, strategic partnerships, corporate foundations
— Economic and tax optimised transfer concepts

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They have significantly increased their international offering in the area of succession planning by using the European CMS network…

JUVE Handbook, 2011/2012

International succession

With a main or secondary residence or other assets abroad, or a foreign nationality in the marriage or family, the foreign matrimonial property and inheritance law, in addition to the inheritance tax law, must always be considered.

The vast majority of our lawyers have legal experience of working with several different countries and also personal work experience abroad. With the personal expertise and the international background of our lawyers, we are able to advise our clients in cross-border issues of wealth succession in an expert and comprehensive manner.

Focus:
- Establishment of national and international wills
- Arrangements for the harmonisation of the applicable international inheritance laws
- Advice on optimal use of international tax laws
- Advice on relocation abroad
- Trusts and foundations

Executorship

In many cases, the estate administration and devolution might be optimised significantly with the **appointment of an executor** or trustee. This ensures that a trusted third party enforces the will of the deceased after his or her death in the best possible manner.

The duties of an executor include the monitoring of compliance with legal requirements and conditions as well as the regulating of children's issues and matrimonial property regime. Our inheritance law specialists are often entrusted with this office. The execution of a will in appropriate form facilitates both the implementation of a client's succession wishes and proper estate administration.

Focus:
- Fulfilment of legacies
- Dispute avoidance between the heirs
- Monitoring of applicable requirements and conditions
- Compliance with forced heirship rules
- Disputes within the community of heirs
- Settlement of tax matters in the various concerned countries
- Long-term management of the estate, if necessary
- Establishment of foundations

Tax advice

A sustainable **tax optimisation** requires a thorough analysis of your individual situation, your projects and the international environment. Private clients and entrepreneurs often have sophisticated demands regarding advice on property tax, income tax, capital gains tax, gift and inheritance tax.

We advise you on national and international tax laws aiming at improving your individual tax situation and avoiding unnecessary tax risks. Thereby, tax optimisation is not simply an end in itself but rather is matched with your personal, family and entrepreneurial background.

Focus:

- International tax planning
- Tax advice in connection with independent asset-holding structures (such as corporate foundations and trusts)
- Tax issues related to a change of residence
- Advice on double tax treaties
- Advice on local and cross-border inheritance and gift tax issues
- Structure audits and subsequent tax declarations
- Tax proceedings and negotiations with tax authorities

Quidquid agis prudenter agas et respice finem
– Whatever you do, do it wisely and consider the outcome.

Aesop (600 BC)

Relocation, residence and naturalisation

The increase in geographical and professional mobility inevitably leads to international marriages and family complications and, consequently, also to issues of business and asset allocation in the international context. Cross-border relocation, dual residence, work assignments abroad, change of nationality and domicile for private or business reasons are not the exception any longer, but more and more the standard.

CMS has extensive experience with issues related to **relocation, work and residence permits and naturalisation**. To make it easier for our clients and their families to get used to the new environment, we also assist you, for example, with the search for residential real estate, communication with authorities and even the selection of schools for your children.

Focus:

— Advice on relocation abroad
— Assistance with residence and work permits, as well as with naturalisation
— Advice on property search, administrative procedures, schools for children
— Inheritance, tax and labour law

Lifetime planning

Preventative and long-term planning

Optimal succession planning is long-term in nature and has to encompass the possibility of **transfers of assets during the lifetime**. In addition to gift or inheritance tax issues, it is often desired to have daughters and sons gradually grow into future responsibilities, to assure the smooth transfer of assets and responsibility to the next generation and to define clear rules for potential emergencies.

The ability to preserve the family wealth, to tie it up and thereby to guarantee appropriate levels of support for and from family members is becoming more and more important. Our advisory concept includes questions such as: is your family protected and able to deal adequately with a serious accident or death? Does a **contingency plan** exist? If so, is it watertight not only in the country of residence, but also abroad?

Focus:

- Contingency planning
- Anticipated succession
- Gift agreements
- Precautionary powers of attorney
- Living will
- Foundation and trust structures
- Life and annuity insurances

Family Offices

More and more, we see wealthy private clients and their families wishing to have the financial and non-financial aspects of their wealth organised and strategically aligned through a family office.

We find that each family office is unique and its **structure must be chosen individually based on the assets, concerns and needs of the family and the family's aims**. We can advise you in this area relying on many years of experience and offering tailored solutions. We have been advising some family offices for over three generations.

Focus:

- Succession and estate planning
- Estate administration and devolution
- Tax planning and optimisation
- Asset structuring with trusts, foundations or other independent asset-holding structures
- Advice in the areas of real estate, art and shareholdings
- Administration, documentation as well as reporting and controlling
- Establishment of family constitutions and organisation of family meetings
- Legal arrangements for banking and fund structures

Philanthropy / charity

We advise and assist our clients in their **philanthropic activities**. Our services range from selection and verification of beneficiaries of charitable donations to the establishment and administration of charitable foundations and non-profit organisations.

Focus:
- Establishment and support of foundations and non-profit organisations
- Administration of foundations
- Application of funds' monitoring
- Tax optimisation
- Negotiations with supervisory and tax authorities

Art

For some of our clients a passionate and financially important issue is their private art collection. Artworks often represent a **substantial investment** and require special treatment with regards to wealth, estate and succession planning.

We advise our clients on **legal, administrative and logistical matters** related to art and, if required, collaborate with acknowledged external experts. Through our network partners we are able to offer all services concerning art.

Focus:
- Assistance on all types of transactions related to art (purchase, sale, distribution and exhibition)
- Drafting and reviewing of contracts
- Organisation of worldwide transports and insurances
- Advice on financing and pledging of works of art as well as on escrow transactions
- Insurance issues
- Tax issues including VAT
- Import and export issues

Cars, aircraft and yachts

We assist you in legal, administrative and logistical issues with regard to drafting contracts, financing, management, licensing and the import and export of vehicles, aircrafts and boats of all kinds.

Through our network partners, we are able to offer a variety of services including acting as an agent for purchases and sales.

Focus:
- Drafting and reviewing of contracts (purchase, sale, financing, leasing)
- Preparation and monitoring of licensing, registration and/or approval procedures
- Insurance issues
- Tax issues including VAT
- Import and export issues

Dispute Resolution

We advise our clients on contentious proceedings before courts and authorities. Our attorneys have extensive experience in both court and arbitration procedures.

For the settlement of disputes, often non-governmental dispute resolution mechanisms such as mediation, arbitration or creative alternative solutions should be considered.

Additional services

CMS maintains trusted and long standing relationships with banks, financial advisors, insurance companies, accountants and industry-specific consultants at home and abroad as well as with multi-family-offices and trust companies, auction houses and brokers.

> In today's world, one should speak three languages: a regional, a national and an international.
>
> *Indira Gandhi (1917–1984)*

CMS – your trusted advisers

CMS offers the experience and expertise of more than 2,800 lawyers and tax advisers in 54 locations across 29 countries in Europe and beyond – a wider European presence than any other law firm.

We combine deep, local expertise and the most extensive presence in Europe with cross-border consistency and coordination. Thus, we offer local advice as well as the services of our global specialists under one roof. We operate cost-consciously and transparently. Our fees are based on agreements tailored to your specific needs. All this allows us to meet the high demands and expectations of our clients, forge and maintain long-term and trusted relationships and provide our clients with individually tailored, multi-jurisdictional legal services in an efficient manner.

Our ability to achieve such is proven by our regular top positions in relevant rankings and the long-term relationships we maintain with our clients, their families and enterprises.

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