

EMERGENCE OF ESTATE AND SUCCESSION PLANNING IN INDIA



I believe that the key to success lies in the satisfaction and happiness of “employees and clients”. You keep them happy and they help you attain excellence and greater success in your journey.

AMIT PATHAK, Managing Director of Warmond Trustees & Executors Pvt. Ltd.

We have seen estate planning gaining prominence over the last two decades. What, according to you, is the reason for that?

India has seen significant wealth creation in the last 20-25 years. With increase in the number of wealthy families, the need for wealth preservation and estate planning has gained prominence.

There is an adage “shirtsleeves to shirtsleeves in three generations”. Data suggests that about 70% of wealth is lost when transferred from the wealth creating generation to the next and about 90% is lost by the time it reaches the third generation. Hence, planning is important.

That’s interesting! Tell us about the popular tools for estate planning?

Wills and Private Trusts are the two tools used globally for estate planning. Will, as we all know, is an age old concept and the most commonly used tool to bequeath assets to intended legatees. Trust, on the other hand is a more advanced and structured tool usually preferred by wealthy families.

Having said the above, Wills and Trusts are not substitutes of each other, instead they are complementary in nature. A combination of both works best for most families.

Why do wealthy families prefer Private Trusts?

Unlike a Will which comes into effect only on the demise of an individual, a Trust could be created during one’s lifetime. The assets forming part of a Trust are

not subject to probate, hence are not susceptible to challenges as compared to a Will.

In addition to achieving smooth inter-generational transfer of wealth, a Trust also helps in ring fencing assets. Further, it could help in minimizing the impact of estate duty and inheritance tax for families whose members reside in countries like USA and UK.

What does “ring fencing” of assets mean?

When structured appropriately by adhering to the right do’s and don’ts, a Private Trust could help in insulating (i.e. ring fencing) assets from future uncertainties such as vulnerability in business, dispute amongst family members, failing marriages etc.

You spoke about estate duty and inheritance tax, can you elaborate?

It is a tax levied on the estate of a deceased. This tax is generally required to be paid before assets are bequeathed to the next generation. India too had estate duty since 1953 before it got abolished in 1985. Many countries like USA and UK, levy this tax and the rate is as high as 40%.

USA recognizes a concept called “Foreign Grantor Trust”, which is very popular amongst families with members residing in USA.

What are the other benefits of creating a Private Trust?

For promoter families it helps in segregation of

management and control from economic interest. Further, it is beneficial for families planning for - beneficiaries residing abroad, minor children, a special child, incapacity and old age.

Has Covid brought about any change in the outlook towards succession planning?

Well, the need for succession planning has always existed. Families have created Trusts and individuals have written Wills for decades now. It’s true that during uncertain times like Covid, people have started giving a higher degree of importance to the subject. Given that we are all mortals, it’s important to find time to put a sound succession plan in place.

Please tell us about Warmond. When was it established and which areas of succession planning do you cover?

Warmond was established in 2006 and is one of India’s oldest and largest independent trustee and fiduciary services company. In 2016, we acquired the trust business of Julius Baer - erstwhile, DSP Merrill Lynch Trust Services Limited. The acquisition established Warmond as an industry leader in the space of trusteeship business in India.

We cover the subject comprehensively i.e. creation of Private Trusts, acting as Corporate Trustee, Will drafting, obtaining probate and acting as Executor of Wills.

Tell us something about yourself. How has your journey been so far and what is your success mantra?

I am a lawyer by qualification and have nearly two decades experience in advising high net-worth families. My colleague Ms. Anuradha Shah and I took charge of Warmond about 6 years back. I must say it has been a very interesting and fulfilling journey. Acquisition of Julius Baer’s trust business, building a wonderful team of lawyers and chartered accountants, gaining confidence & endorsement of our clients and building “Brand Warmond” have all been immensely satisfying.

As a business owner, I believe that the key to success lies in the satisfaction and happiness of “employees and clients”. You keep them happy and they help you attain excellence and greater success in your journey. ■

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