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Introducing Dubai
A destination for private and corporate wealth

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History and background

Dubai is one of the seven emirates comprising the United Arab Emirates and is the country's largest city. Originally a small fishing and trading settlement, Dubai saw a rapid transformation of its economy following the discovery and export of oil in the mid-1960s, and later diversified to become a first-class tourism destination and a world-leading financial services center.

As an oasis of calm and stability in a region rocked by the conflicts in Syria, Iraq and Yemen, Dubai is seen locally as a safe haven for individuals from the rest of the Gulf Cooperation Council (GCC) and other Middle Eastern countries, but also, increasingly as an alternative jurisdiction for wealthy high-net worth families and their investments from around the world.

Dubai – Legal and regulatory background

The UAE is largely governed by Sharia law – thus criminal and civil issues are dealt with along these lines. Generally speaking, foreigners cannot own more than 49% of a business in Dubai, a rule which requires co-operation and co-investment from a local partner.

The DIFC rule of law has a common law framework; it also has its own courts (dealing with civil and commercial cases) and progress has been made recently towards a DIFC Wills registry

However, Dubai has several free zones and Special Economic Zones (SEZs) in which the rules of law can be slightly different, which makes them of interest to internationally mobile families.

Probably the most well-known of all the SEZs is the Dubai International Financial Centre (DIFC). Established in 2002, and allowing foreigners to own 100% of DIFC entities, it is home to many local and international wealth management and private client service providers (stockbrokers, lawyers, accountants, business advisers, auction houses, NASDAQ Dubai and Dubai Mercantile Exchange, etc.).

The DIFC rule of law has a common law framework; it also has its own courts (dealing with civil and commercial cases) as well as a Wills & Probate Registry for non-Muslims (see below). Fully regulated, the DIFC has strict anti-money laundering rules, having modeled the legislation on best practice from regulators in London and New York to ensure that the DIFC is a real contender on the international financial scene. Indeed efforts are being made in government to amend and update some of the other commercial and private legislation in the rest of the country too, so as to attract more foreign investment into the UAE, which it is hoped will increase exponentially in the run-up to Dubai's hosting of Expo in 2020.

The DIFC was an early proponent of the concept of the Single Family Office (SFO); in fact, it was the first jurisdiction to define a family office in legal terms. Legislation relating to SFOs which recognizes the unique requirements of family offices and their limited public liability has been in place since 2008. Being based in the DIFC means family offices can benefit from the robust legal and regulatory framework, and highly qualified and experienced professionals, whilst being exempt from the regulations applicable to conventional financial institutions.

A business established in one of Dubai's free zones may not conduct business in 'onshore' Dubai. It can of course carry on business with entities in other free zones or outside the UAE.

Foreign trade

According to the DIFC, as a city within the UAE, Dubai is part of the world's third-largest export and re-export center, after Hong Kong and Singapore. The UAE's biggest trading partner is India, followed closely by China and then the US. Dubai's diversified economy and movement away from a reliance on oil has helped it to weather recent financial storms.

As host city of Expo 2020, Dubai anticipates it will attract 25 million visitors, the vast majority of which will, unusually for this sort of event, be from overseas. This multicultural 'mega-event' will be held under the theme of *Connecting Minds, Creating the Future*, which it is hoped will showcase Dubai as a springboard facilitating investment in Africa as well as Asia.

Dubai local tax

The tax regime for individuals in the emirate is, without question, benign. There is no tax on income, capital gains, gifts, wealth or inheritance. Aside from municipality taxes on hotel or restaurant bills, taxation on alcohol and a form of council tax, the most significant tax bill which private individuals are likely to incur is a property transfer tax on any local real estate transactions.

Clearly this makes Dubai a very desirable location for those looking for gross roll-up of income and tax-free gains. This is particularly so for those individuals who would otherwise be subject to withholding taxes e.g. under the EU Savings Directive, or the various Swiss agreements. However, this does not mean that Dubai is a 'soft touch'. Along with the similar strict anti-money laundering rules applicable in the EU and other Western economies, the UAE has, in line with its international peers, indicated its intention to sign up to international information-sharing agreements.

Dubai is part of the world's third-largest export and re-export centre, after Hong Kong and Singapore

Given the tax-free environment in which many Dubai residents have always lived, planning or structuring is almost never undertaken for tax purposes. There are usually succession, commercial or local legal reasons why such structuring is necessary.

Furthermore, being tax resident in the UAE can be as simple as having a valid residence visa – therefore it is not wholly unsurprising that some individuals believe they cannot be tax resident, or subject to taxation, elsewhere if they visit other countries on a short-term tourist visa. The world is, however, changing and residents of Dubai are reacting to this new way of life.

International fiscal relations - UAE

In light of the United States' Foreign Account Tax Compliance Act (FATCA) rules, the UAE has indicated its intention to put in place a Model 1 IGA (Inter-Governmental Agreement), which means that local financial institutions in Dubai will report directly to the local tax authority rather than having to report directly to the Internal Revenue Service (IRS). The intention to sign the IGA also means that, for now, Dubai residents are protected from the automatic FATCA withholding taxes by US paying agents which would otherwise apply.

Foreigners make up 80% of Dubai's population, helping to create a vibrant and multicultural city

Furthermore, following satisfactory Phase I peer reviews of the legal and regulatory frameworks for transparency and exchange of information, the UAE has signaled its intention to be part of the second wave of early adopters of the Common Reporting Standard (CRS). The consequence of this is that from January 1, 2017, financial accounts (broadly defined) in existence in the UAE (as well as Saudi Arabia and Qatar) will be subject to automatic reporting in 2018 to the beneficial owner's jurisdiction of residence. The impact of CRS will therefore have a much broader impact than FATCA.

Participating jurisdictions will be required to exchange information on financial accounts held by non-resident individuals, trusts, foundations and other entities, with that person's country of residence. Financial information to be shared will include investment income (including interest, dividends, income from certain insurance contracts and other similar types of income) as well as account balances and sales proceeds from financial assets. Passive entities will be 'looked through' so that the financial institution will be required to report on the ultimate beneficial owner. Historically, there has been no widespread local requirement to report financial information to a regulatory body, so there will undoubtedly be a challenge to inform and educate residents and investors on the new world order. Dual nationality or long-term visitors' visas are not uncommon in this region. Whilst facilitating travel, such documents can also expose the holder to taxation in the other jurisdiction, something which is commonly overlooked. Awareness of the worldwide basis of US taxation is increasing in the wake of FATCA, and many individuals are regularizing their position.

The introduction of the UK statutory residence test has also affected many in the region – the trend for so-called 'Dubaiites' (both local and expatriates) to decamp to the UK's cooler and less humid climate during the summer means that an individual's potential UK tax exposure must be reviewed. This, combined with the new ATED (Annual Tax on Enveloped Dwellings) charge on corporate ownership of UK property and the extension of capital gains tax (CGT) to non-residents is increasing the costs and exposure of UK taxation for those with residential property in the UK.

Family governance and succession planning in Dubai

Given the relatively recent discovery of oil in Dubai, the bulk of the wealth is still in the hands of the first generation. This is in stark contrast to wealthy families in the US, UK and India, for example, where the experience of transition and succession of family wealth is relatively widespread. With the warning of "shirt sleeves to shirt sleeves in three generations" resonating from these jurisdictions, wealthy families in Dubai are focusing more and more on an effective succession plan.

For Muslims, devolution of one's estate is of course determined by Sharia' law, but in business families this can sometimes lead to the dissipation and dilution of control of the family enterprise. Planning to circumvent the aims of Sharia' is not to be recommended; indeed, a disgruntled, disinherited son or daughter would undoubtedly successfully appeal to the local court for restitution, thus negating the time, effort and expense of the father to avoid this.

For non-Muslims and Muslims alike, ensuring a harmonious and successful 'next generation' is key to a good succession plan, which must of course be put in place with the buy-in of all the relevant heirs during the patriarch's lifetime. In this way, a family-agreed "vision" secures the business and family relationships for the future. The succession plan can involve trust and company structures, both locally and in other offshore jurisdictions. As noted above, succession planning and structuring in Dubai are almost never triggered by tax considerations, but with such a mobile population of diverse nationalities, clients must always be reminded of the potential for tax exposure somewhere in the world.

UAE wills

Although as noted above, unless assets are held via a free-zone or Special Economic Zone entity, most foreigners cannot own Dubai situs property or assets. However, many expats and wealthy non-nationals can and do have assets that can be dealt with by a UAE will (e.g. cars, bank balances, free-zone companies, 49% holdings in local businesses, etc.) To date, there has been some uncertainty regarding the necessity of a local will for non-Muslims – one view is that on death, Dubai courts should apply the local law of the deceased's nationality, but in practice, the local law of the situs of the asset (i.e. Sharia') could apply, and indeed has applied in some cases. To address this concern, and to provide comfort to inward investors, Wills & Probate Registry was launched in May 2015.

The DIFC wills registry covers the devolution of assets held in the emirate of Dubai, and intends to provide assurance that Sharia' law will not govern the destination of these assets (although it will not necessarily provide protection from forced heirship laws in other civil law countries). For now, assets held by non-Muslims outside of the emirate of Dubai will still be at risk of being subject to Sharia' law.

A successful and entrepreneurial cohort of 'next generation' family business owners will be instrumental in the continued advancement of the economy

Although women are in the minority in the overall population of Dubai, their right to equal treatment is enshrined in the UAE constitution

Dubai – Population and society

According to the Dubai Statistics Centre, the population of Dubai (at December 2013) was just over 2.2m. Of this population, approximately two-thirds are men, and approximately two-thirds of the total population is aged between 20 and 39 years. This unusual population structure, with a high proportion of working age males is the result of the rapid economic growth witnessed by Dubai. Foreigners make up 80% of Dubai's population, helping to create a vibrant and multicultural city.

Although women are in the minority in the overall population of Dubai, their right to equal treatment is enshrined in the UAE constitution. There are five women in the UAE cabinet and according to government statistics, women form two-thirds of government sector workers and finance one-third of the transactions in the financial and banking sector. The positive contribution women can make to business and society is acknowledged in UAE law. For example, companies must adhere to the UAE decree of 2012, which makes it compulsory for corporations and government agencies to include women on their boards of directors.

The future

As oil prices fall, neighboring economies are suffering. Dubai, however, has made great strides in diversifying away from reliance on petrochemicals, partly through necessity (Dubai's oil reserves are smaller than many other oil-producing nations) and the economy so far seems to be holding up well. Tourism, investment and inward expatriates are widely encouraged, both from other GCC countries as well as further afield. The cosmopolitan and highly skilled workforce serves to further enhance the attractiveness of Dubai as a destination for both tourism, investment and family offices, which it is hoped will continue for some time to come. As local families look to the future, a successful and entrepreneurial cohort of 'next generation' family business owners will be instrumental in the continued advancement of the economy.

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