

A matter of **life and death**

Philip Cernik, Chief Marketing Officer for the Middle East & Africa at Friends Provident International, says that expats residing in the UAE need to structure their estate carefully to ensure that their assets and total wealth transition to their loved ones on their death.

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WHEN CERNIK SPOKE TO THE AUDIENCE AT the Hubbis Middle East Wealth Management Forum in Dubai on January 24, he explained that he was primarily addressing non-Muslim expats living in the UAE, especially those with local property or other assets and with children.

Cernik's presentation, therefore, focused on the need for expats - from any part of the world - to prepare strategically and efficiently for their demise. To not do so is dangerous if those expats might leave partners, children and other family members behind.



PHILIP CERNIK
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Your choice, or local law

He explained that if an expat passes away in the UAE without a Will in place the government of Dubai stipulates that Sharia law presides. "This covers assets an individual might own here in the UAE, but it also covers your children as well, a factor that many people do not realise or think about," he noted.

He cited a hypothetical case of a typical family unit, comprising a husband and wife, with a son and a daughter. Both spouse's parents are still alive. "What happens if the husband dies suddenly and unexpectedly?" Cernik asked.

He answered that, typically under Sharia law in Dubai, 36% of the assets would go to the son and the wife would receive 12.5% of the assets. And should the wife pass away first, then the husband would receive 25% of her assets, the son 27% and so forth.

"None of these outcomes might be what the family would like," Cernik noted, "so it is essential that expats have a properly executed Will in place."

He explained that there is currently legislation that enables non-Muslims in Dubai to write a Will in the same vein as they might in their home country, through the DIFC Wills & Probate Registry. The Will must be in English and should be

drafted with the help of a reputable law firm.

Wills are not just for assets

Aside from assets, the Will can determine how children are to be cared for in the event of a death and also determine whether someone is to be buried or cremated. "These are all crucial elements to organising and conducting a Will according to the laws of an expat's country, rather than being subject to local and Sharia laws," Cernik explained.

Cernik then described the type of Wills people can make, ranging from the most complete that would include assets, children, guardianship and so forth, to a specific Will that might include only guardianship in the event that the children are still minors. Or individuals can draft a specific individual property will. He also highlighted the costs.

On the specific issue of children who are minors, he strongly advised that people address this matter carefully, as the UAE is not equipped with a deep social care system, therefore it is important to draft future care and guardianship provisions extremely carefully.

Property is a key area, he noted, as on death in the UAE a jointly owned property is effectively frozen and cannot be touched until probate has been completed.

Structuring the bank accounts

Finally, Cernik advised that on a death bank accounts are frozen, even if they are joint accounts. Again, this situation persists until probate has finished. A sensible way to structure bank accounts is to have individual accounts in the names of husbands and wives or to invest offshore.

To complete his talk, Cernik said he would give the audience a real example of a difficult situation his firm had encountered. Changing the names and some details for privacy, the example was of a Hindu family with a 15-year-old son. The father passed away suddenly without a Will and Sharia law applied, giving guardianship of the son to the paternal grandfather. The joint bank accounts were frozen, and it took over a year to settle, leaving the mother relying on friends and family to make ends meet and on the openness of her father-in-law for decisions regarding her own son.

Cernik's last point was that life insurance can and should form a vital element of wealth and legacy planning. "You should not ignore this subject," he said, "life insurance doesn't only cover funeral costs, it can provide lump sums as well as replace lost income." ■