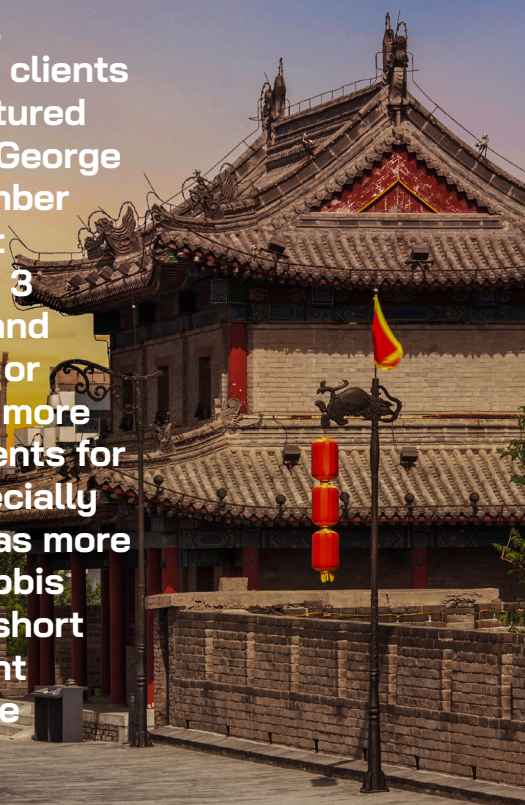


Legal Expert Tim George on Mainland Chinese Clients, Empathy, Experience and Agility

Tim George, the Hong Kong-based partner of London-headquartered law firm Withers, specialises in working with wealthy private clients in Asia on the disciplines of properly structured and executed estate and legacy planning. George was a key panel member and offered a number of valuable insights during the most recent Hubbis Digital Dialogue event of December 3 that debated how Mainland Chinese HNW and UHNW clients and families are addressing, or not as the case may be, the need to adopt more professionalised structures and arrangements for their estate and succession planning, especially if they have complex international affairs, as more and more of such clients do nowadays. Hubbis has distilled some of his insights into this short report, which offers the wealth management community and these clients some valuable nuggets of sound advice.



Are HNW and ultra-HNW

Chinese families from the Mainland adopting the appropriate strategies to enhance their business and family governance, to organise more structured and professional wealth planning and then to organise more effective estate and legacy transition? George believes that some are, that some are not, but he advises those with plans in place to review and revise those regularly and cautions those who do not have structures and plans in place to take action sooner rather than later. And he also advises the advisory community to try to adapt their propositions to the mood and culture of these clients.

assisting with the establishment and operation of family offices; defining sophisticated strategies for individuals moving between jurisdictions, and advising on multi-jurisdictional estate planning with single or multiple wills.

Armed with this experience and repertoire, George approaches the whole topic of estate and legacy planning in China with considerable understanding and empathy. He knows that to arrive at the right solutions is not an easy journey for anyone, anywhere, and perhaps especially for some of the Mainland Chinese families he works with.

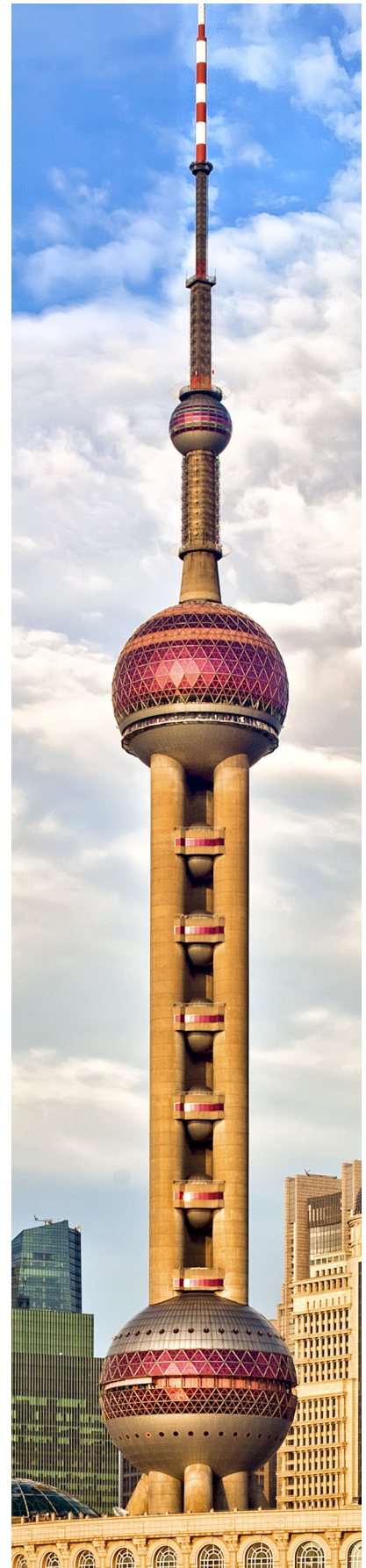
“Chinese families are still grappling with the inherent conflict between wanting effective succession and asset protection structures while remaining reluctant to surrender control to the extent necessary,” he observes. “Advisors need to be able to offer a full spectrum of structures, not just trusts, but also funds, partnerships and cell companies, to meet such diverse needs.”

Empathy and adaptability required

Having joined Withers in 2004, and having become a Partner in 2012, he relocated to Hong Kong in 2018, where he is today recognised as a leading private client lawyer in the field of wealth and legacy planning. George’s expertise includes advising entrepreneurs in relation to the structuring of their businesses, considering issues including business continuity, succession, investment treaty planning and remuneration strategies; advising families in relation to the protection of their wealth, using trusts, foundations, partnerships, companies and funds;

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He explains that addressing this central issue is at the heart of any successful structure that will truly achieve the desired goals of effective, robust succession and transition of wealth through the generations.





TIM GEORGE
Withers Worldwide

Controlling the element of control

“I think that this is a core hurdle that any advisors face, because to be honest, many Mainland Chinese clients want their cake and eat it, to coin a phrase,” he says. “They want the succession planning, they want the asset protection, they want all the facilities that they’ve read about, but are all too often not prepared to budge in terms of control. This juxtaposition between protection and control is really our biggest challenge in this endeavour.”

Give and take needed

Accordingly, George says there is a vital need to educate the market but that this is a two-way street as the advisory community should also strive to meet clients halfway where possible by rising to the challenge of accommodating their preferences and predilections.

“Rather than somewhat forcing on these clients certain of the concepts and structures that perhaps have become popular in the US, the UK and Europe, we actually need to be a bit more malleable. For example, we can consider the idea of reserve

powers, we can think harder about using partnerships, look at adapting shareholding structures, in summary we can think about being rather more imaginative and novel in the way that we can structure to protect assets and allow for succession, but to also give our clients the control that they so clearly feel they must have.”

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Any journey begins with a single step

He elaborates on the education and nurturing required. “It is sometimes necessary and valuable to take a ‘softly-softly’ approach,” he says. “Quite a number of families will start with something that they have a high level of control over, for example, a complete reserved powers trust, and then we can gradually encourage them to shift towards maybe surrendering some of those powers, maybe introducing a protector committee, maybe creating a family council, and so on and so forth. In short, it is often better not to go straight for the ‘perfect structure’ from day one; it tends to be a much more gradual process to achieve the desired outcomes.”

He also observes that it can be the optimal approach to Chinese clients by starting with the structuring perspective and not governance or theory.

Reverse engineering the solutions

“Family governance might come first,” he says. “Many of my col-

leagues in the US and the UK will sit down with a wealthy family, they will have individual meetings with lots of different family members, learn about their hopes and dreams and aspirations and where they want to be with regard to the family business, but – and here I am making a huge generalisation – if you approach it like that in this market, that will more likely fall rather on deaf ears.”

He continues: “I believe in this environment we can be better off approaching it from a structuring perspective, seeing who’s calling the shots, who is pulling the strings, and who the controlling individuals are from a succession perspective and building an appropriate structure around that. And only once you’ve got that in place can

you then start thinking about family constitutions, family creeds, family councils, all the nice stuff that we love talking about. In summary, I think almost we have to sort of reverse our order of thinking, reverse engineer the proposition.”

Seeing the structures and solutions

George also offered the December 3 delegates some useful guidance on a few closely related ideas. “We are seeing greater interest in the

Singapore Variable Capital Company and the Hong Kong open-ended company structure,” he reports, “even if these were not necessarily designed entirely for the private client market, and are perhaps a bit ‘clunky’, . But overall, I say ‘watch this space’, as the whole arena of different structures being used in a private client context is opening up.”

In an imperfect world...

His final comment in the panel discussion was that there will al-

ways be disputes between family members, but that if structured robustly, these dangers will either be averted or mitigated. “The reality is that dispute within a family context is increasing, sadly,” he reports. “On the flip side, if we all do our jobs right at the start, then hopefully, while we won’t necessarily prevent family dispute, we can limit the extent of any fall out. But for sure, it’s never going to go away.” ■

