



Leveraging alternative jurisdictions – South Africa and the British Virgin Islands

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This strategic approach opens new avenues for growth and security and inspires optimism and reassurance for South African families with significant wealth and business interests.

“If you can't run with the big dogs, stay on the porch” - John Madden

Private Wealth and its powerful influence

Global private wealth reached a staggering US\$454.4 trillion in 2022. Those with US\$100,000 to US\$1 million (R1.7 million to R17.4 million) hold a significant 39.4 per cent share of net household wealth. For successful South African families aiming to expand their influence, thinking beyond their current solutions and limitations is crucial. Doing so can inspire generational prosperity and motivate them to explore new strategies.

South Africans and global expansion

When South African families aim to expand their wealth and businesses, they often face real and perceived challenges. However, with the proper professional assistance and asset protection, these challenges can be navigated with confidence and reassurance. Access to the right advisory teams and understanding the latest trends and opportunities are critical to simplifying the complexities surrounding asset protection, expansion, reporting frameworks, and generational opportunities.

Connecting with a local expert who can work independently with offshore providers is not just essential, it's a game-changer. Their role in ensuring that the solutions align with the family's goals without encountering jurisdictional issues is crucial. This alignment provides a solid foundation for successful offshore expansion and instills confidence and security in the decision-making process.

Although South African families exhibit a global and entrepreneurial mindset regarding business, family, and wealth expansion, they might be discouraged due to globalisation's complexities. When families and businesses rely on various expert teams, they will save time and resources in the long run.

They can co-create accurate offshore solutions for their families and businesses. While some families may adhere to traditional or socially advised trends, these may not always best suit their circumstances, and they might end up with a short-lasting legacy and business solutions.

Advisors often face the crucial question of which jurisdiction would best serve the expansion and safeguarding of their wealth and business interests. While advisors usually steer families towards familiar jurisdictions, exploring what successful global families consider when evaluating their options and which instruments they use to create sustainable solutions is essential.

In cases where families have embraced a more entrepreneurial mindset and are increasingly involved in managing their wealth, they have turned to jurisdictions such as the British Virgin Islands rather than handing complete power to a professional. This change has led to the development of structures that enable the family and the new wealth generation to actively understand the advantages of

succession planning, making decisions, and maintaining their influence without compromising the structure's integrity. This empowerment, arising from active participation, fosters confidence and a sense of security in families, as they know they are shaping their financial future.

Compared to other jurisdictions, the British Virgin Islands which is a British Overseas Territory situated in the Eastern Caribbean, has comprehensive and sophisticated succession planning vehicles and laws available. Some of these structures allow the family to be actively involved subject to local tax advice.

The British Virgin Islands and their optimal co-creation solutions

Family office structures in the British Virgin Islands

The concept of family offices in South Africa and globally has gained popularity over the past few years, with the number of single and multi-family offices increasing yearly. Setting up a family office is typically tied with setting up a family fund (sometimes in the Cayman Islands and the British Virgin Islands). The set-up of a family fund institutionalises the holding structure for the family's assets, facilitates succession planning, and creates a more efficient and transparent vehicle. However, commonly, there also needs to be a succession plan for the family office structures themselves, and that is where a British Virgin Islands VISTA trust or British Virgin Islands PTC structure can come into play as the optimum succession planning tool, partly due to the ability of the family to retain some level of control of the underlying structure, subject to local tax advice.

Some families have a family office in one jurisdiction and a mirror structure in a global office. This enhances the family's ability to be flexible with their wealth strategies. Similarly, most successful families will have a local wealth and business framework that can be mirrored offshore, with specific characteristics that might differ due to the open architecture of offshore solutions, such as the British Virgin Islands VISTA Trust.

British Virgin Islands VISTA trust

The British Virgin Islands has specialist legislation in the form of the Virgin Islands Special Trusts Act (**VISTA**), which disengages specific traditional trustee duties. While a British Virgin Islands company's shares are held in trust, the directors of that company are free to administer the company as they see fit, without intervention from the trustee (except in extreme circumstances). The family may be involved in the British Virgin Islands company as a director (subject to tax advice), thereby retaining control of the underlying assets within the structure's limitations. In addition, the family may also take up the office of Protector and the office of Appointor, allowing the family to appoint future directors of the British Virgin Islands company, once again subject to the observation of certain control risks.

This solution remains critical for families looking to have succession planning in place and still retain some influence. VISTA also allows for the option of disapplying VISTA at a particular event, allowing a VISTA trust to convert to a reserved powers trust, perhaps on the settlor's death, should the settlor be concerned that the family will not be able to manage affairs appropriately. Any good estate plan must retain the flexibility to support the family when circumstances change and considering alternative options and ongoing stress testing of the solutions remains critical. The solutions that are used must have the ability to evolve with the family story, for example, using a ring-fenced trust company structure.

British Virgin Islands private trust company structures

The British Virgin Islands has built a reputation as a sophisticated jurisdiction in which to incorporate private trust companies (**PTC**). Setting up a PTC allows Settlers or their trusted advisors or family members to exercise a degree of control over the decisions made by the PTC. By serving on the board of directors of the PTC, the family can make decisions as and when required, and these decisions can be made expeditiously without having to wait for an independent Trustee to deliberate on a decision.

PTC structures also allow the family to set up different trusts, allowing assets to be ring-fenced or placed in individual trusts for other family members. PTC structures have become popular in Asia for families seeking pre-IPO (Initial Public Offering) structuring and integration with family office solutions. They complement both onshore and offshore structures. Some South African families have also established PTCs to protect their privacy and enhance the family's decision-making powers.

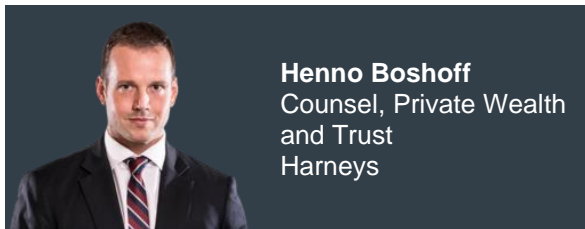
Conclusion

No standard structure exists for any family or business, but specific methods and solutions have worked for families for generations. One standard success story is where the family understands that wealth is more than numbers; it is driven by the family's values, mission, and vision. When there is a meeting of minds between the family and the advisors, created by a shared vision of the family, then the solutions are more aligned and sustainable.

Many families start with a basic governance structure, and historically generational families, like the Rockefellers, make sure they have good advisory teams to guide them. John D. Rockefeller is credited with establishing the United States' first full-service, single family office. The Rockefeller Family Office was established in 1882 and provided diverse services, including investment management, estate planning, and philanthropy. The Rockefeller Family Office was a model for other wealthy families, and soon, more family offices emerged, such as the Carnegie and Vanderbilt families. Although not all families require a family office, they need professional support and a family framework to set them on a path to reach their goals.

Act with care and take action towards making informed decisions to create generational success.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.