First-generation Chinese wealthy turn their attentions to succession

By Claire Coe Smith

Sunset over Victoria Harbour as viewed atop Victoria Peak, Hong Kong.

If there is one thing keeping wealth advisers in Hong Kong busy, it is succession planning for wealthy Chinese families. Not a day goes by without another newspaper headline about a nasty family feud brought on by the death of a patriarch, or a divorce, and HNWIs are turning to Hong Kong advisers for help.

"We are seeing more and more of the traditional use of structuring using trusts and foundations for succession planning," says Melanie Ison, managing director of the Hong Kong office of fiduciary business Nerine. "There is much less of a tax focus now than there was even just a few years ago."

Paul Christopher is the Hong Kong managing partner at law

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Withers

firm Mourant Ozannes, and has witnessed the same trend: "There remains a cultural issue in China around failing to plan for the future and around death and succession. Even though there is quite a lot being done, that can be culturally quite difficult for people, and there is still plenty more that could be done. There's no doubt families are feuding over planning failures, and those fallouts can be pretty high-profile here in Hong Kong."

Much of the challenge for advisers is therefore to educate wealthy families on the issues they might face, and how they should be better structuring their affairs. What can make things more complex is a blurring of the lines between business and family, given that so much of the wealth in the region remains in the hands of the first-generation business leaders.

"For our clients out here, we still see a lot of that first-generation wealth concentrated in the hands of the original wealth creators, so there is not necessarily such a distinction between business and wealth, like there is in Europe and America," says Christopher. "The two things are quite linked, so the formal asset is often still the business rather than a bankable commodity."

That concentration of assets in the hands of the few can make the adviser's job easier, because there are fewer parties involved in discussions about the management of assets. But it can be difficult to get the attention of clients who are still focused on running their businesses.

Richard Grasby is a partner in the Hong Kong office of law firm Maples and Calder, and advises institutional trustees and private individuals on trust law and related private wealth issues. He says: "The

HNW clients of our Hong Kong office come predominantly from the Greater China region. Hong Kong is the principal location but new business is increasingly from Mainland China. In addition, many wealthy individuals from Mainland China have settled in Hong Kong."

He adds, "This does present issues relating to communication with clients and background information on their businesses. Clients from Mainland China tend to be younger and still in the wealth creating phase. Finding the time to concentrate on structuring advice can be a challenge for them."

He says trusts feature prominently, as does the use of private trust companies and family investment structures, including family offices. Retention of control and confidentiality are two key areas where advice is sought, with many structures being set up to make use of the Cayman Islands or the British Virgin Islands.

Ison says she is also witnessing a lot of structuring using the BVI, as well as Guernsey: "We do a lot using Guernsey and BVI structures," she says. "Hong Kong and Singapore, whilst they do have very good financial infrastructures, are still not always as flexible as other places for these structures."

She argues that Hong Kong has stopped short of trying to compete with offshore markets for such work: "What Hong Kong has done is recognised the need to modernise its offering, putting through revised trust legislation at the end of 2013, but it didn't go the same way as the offshore jurisdictions in that it wanted to stay somewhere in between. It wanted to be attractive but it wanted to be seen as 'mid-shore', so there is flexibility there, but not in the same way as there is in Guernsey, for example."

Such an approach works well given the increasingly international nature of Chinese families, says Ison: "When you have global families dotted all over the world, you might want something with more of an ability to be serviced globally, but also want to be able to speak to someone in your own time zone. It depends on the client, but if they have assets that are based in more Western jurisdictions, they may choose a trust based there for ease."

Hong Kong has traditionally always competed with Singapore as the wealth management hub for Asia, but advisers say a clear distinction is now evident between the two markets, with Hong Kong much more closely tied to the Chinese clientele.

Philip Marcovici worked for many years as a partner at Baker & McKenzie in Hong Kong and Zurich, but has since retired and now consults with governments, financial institutions and global families in relation to tax and wealth management. He says: "Singapore and Hong Kong are two very different wealth management centres. Singapore is a much more successful financial centre as a location where trusts can be set up and certain support services for wealthy families are located. But when it comes to wealth management, there are distinct client bases. In Hong Kong, the traditional Hong Kong Chinese wealth-owning families are quite westernised, with most of the younger generations educated in the UK or the US, and things are fairly straightforward from a

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David Rimmer,
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tax perspective even though the families are very international."

Add to that the growing population of Mainland Chinese clients passing through Hong Kong, and there is plenty of business. By contrast, Singapore is serving a much broader client base across the Asia region, and is more of a location from which trust services are provided and from which the banks offer high end wealth management products.

"There's no doubt that Mainland Chinese clients find Hong Kong a useful place, being geographically close to Mainland China and providing services that are set up to address their needs," says Christopher. "Hong Kong is often a stepping stone for those clients as they look to build bridges outside the People's Republic of China (PRC)."

Much has been made of the recent slowdown in China's economic growth rate, and there were fears that the proximity of Hong Kong as the gateway to China may result in a dent to its private client prowess. Such a fallout has not been evident, says Ison, who points out that China remains a huge market for wealth generation: "There has been an economic slowdown, but from a structuring sense, we haven't seen a fall-off," she says. "Irrespective of what's happening locally, people are still looking at their succession planning, and we have probably seen more interest. People may not be focused on their ability to invest,

and their businesses may have suffered, but in terms of private wealth and structuring, there's been no slowdown in activity."

Instead, the biggest challenge comes from complying with complex Chinese legislation, says Timothy Burns, a partner with the law firm Withers in Hong Kong. "In the PRC, there are a number of restrictions on property ownership, as well as on currency exchange, that can make planning difficult. However, as the market matures, there will be more avenues for people to engage in planning, such as the use of PRC trusts to hold certain types of assets."

The well-established system of exchange controls makes it difficult for UHNWIs to get money out of Mainland China in the first place. Marcovici says: "If you're dealing with Mainland China families the whole issue of how to work within the system to get money out is key. There are a number of things that families do, in terms of public listings of companies, to get money out, but it is a critical challenge, as will be upcoming changes in the Chinese tax system."

Not all of the work comes from the mainland, however, and two other buoyant sources of business can be put down to recent regulatory changes. For a start, Asian clients are consolidating and streamlining structures in light of the Common Reporting Standard (CRS), according to Katie Graves, another partner with Withers. She says, "Hong Kong-based clients are considering setting up structures solely or primarily based in Hong Kong to avoid the same information being reported many times over."

Hong Kong is not among the countries classified as early adopters of CRS and so will have a little time to learn from the experience of others before implementing the new regime in 2018.

Finally, the jurisdiction is also benefitting from the changes to non-dom taxation in the UK, according to David Rimmer, client manager at Hawksford, the corporate, private client and fund services provider. He says: "Due to the historic connection between the UK and Hong Kong, Hong Kong continues to be an attractive option for many from the UK. Some successful non-UK born financiers who have lived in the UK for less than fifteen out of twenty years, and are recognised by HMRC as UK resident but non-domiciled, are choosing to leave the UK and relocate to Hong Kong. Being a permanent Hong Kong resident allows the ultra-high net worth individual time to restructure their affairs should they ever wish to return to the UK after five years of absence, or decide to relocate elsewhere."

There is no shortage of work for private client advisers in Hong Kong, even if the mandates may not always be straightforward.

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