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# Lebanon

## International Estate Planning Guide Private Client Tax Committee

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## **I. Introduction and background information**

Lebanon has a unique intercommunal system that is deeply rooted in its history and reflected in its legal practice. The country is known for its diverse religious and ethnic communities that transformed the legal and judicial systems into hybrid systems incorporating elements of both civil and religious law.

The civil law system includes, inter alia, commercial, civil, criminal and public law, and is based on the French legal tradition; it is therefore governed by civil laws and subject to the jurisdiction of national courts. By contrast, personal status matters, such as marriage, divorce and inheritance, are, in principle, governed by religious laws and fall under the jurisdiction of religious courts, each catering to specific religious communities. The main religious courts include Christian courts (for different Christian denominations), Sunni courts, Shia courts and Druze courts.

Inheritance matters and succession planning are part of one area of manifestation of the complex interplay between civil and religious legal systems in Lebanon. As an exception to the religious system governing inheritance matters, the inheritance of all non-Mohamadi is governed by a civil inheritance law and falls under the jurisdiction of national civil courts.

Based on the above, this guide will provide information on estate planning in Lebanon based on the civil inheritance system applicable to non-Mohamadi (excluding), the religious system governed by Sharia.

## **II. Lebanese and foreign wills**

### *A. Formalities and validity conditions*

#### 1. FORM OF THE WILL

A valid will executed in Lebanon can take the form of either an official deed or a holographic document. The official deed of a will is construed and executed before a notary public, whereas a holographic will, handwritten by the testator, must be signed and dated by the testator and then personally deposited by the testator or his/her legal representative at the notary public. The holographic will be deposited in a red wax-sealed envelope, and the sealing must be ratified by the notary public. A reference to the existence of the will must be made by the notary public in a special record.

The will of a Lebanese national executed abroad could be construed and ratified in the same way as detailed above or in accordance with the laws and regulations set forth in the foreign country under the system of which the will is being executed. A holographic will executed by a Lebanese national abroad is subject to the same conditions of deposit before a notary public or, as the case may be, a Lebanese consul.

## 2. REVOCATION OF THE WILL

The revocation of a will is possible through the execution of a subsequent will in the official or holographic form, provided it is deposited at the notary public in the same conditions detailed in section II.A.1 above, whereby the testator declares the revocation of the previous will.

In the event the subsequent will does not incorporate an express withdrawal of the previous will, it shall implicitly annul and replace all the provisions of the previous will that are contrary or inconsistent with the provisions of the new will.

An implicit revocation of a will also occurs when the testator disposes before his/her demise of the asset(s) that had been gifted in the will.

## 3. ACCEPTANCE AND REFUSAL OF THE WILL

The explicit or implicit acceptance of a will shall make the will binding following the demise of the testator, noting that the will could be fully or partially accepted or waived. It can also be accepted by some of the beneficiaries and refuted by others.

The effects of the acceptance can only take place upon the demise of the testator, and any waiver to benefit from the will occurring prior to such demise shall not have any effect.

## 4. VALIDITY CONDITIONS OF THE WILL

### a. General conditions of validity

Generally, a valid will must be construed and executed by the testator individually and is invalid if it was construed by more than one person.

A will is considered null and void if it provides for impossible or prohibited conditions, or for conditions that are contrary to public order (*ordre public*) and social morality. If such conditions are not the main motive for the execution of the will, then only these conditions shall be annulled while the will remains valid.

A will that has the effect of freezing assets is considered invalid unless it incorporates a *wakf* (as detailed subsequently), in which case it shall be governed by the regulations applicable to the *wakf* creation.

### b. Conditions concerning the testator

The testator must be sane, have full capacity to transact a donation and above the legal age required, that is, 18 years old.

c. Conditions concerning the legatee/beneficiary

A will is valid for any person, whether belonging to the pool of heirs or not, as well as to a foetus born alive, provided that the legatee is not statutorily considered as incapable of inheriting, in which case the will shall be annulled.

The beneficiary of a will shall be determined by the testator personally; otherwise, any will that is executed for the benefit of a legatee who is unable to be determined upon the testator's demise is invalid and shall therefore be annulled.

The legatee can legitimately be a religious entity, charity or other public entities that have legal capacity.

If the beneficiary is non-Lebanese, the reciprocity principle shall apply, validating the will merely to the extent that the law of the beneficiary's foreign country allows the execution of a testament in favour of a Lebanese national.

*B. Enforcement*

1. EXECUTOR

The testator may appoint one or more executor(s) to enforce the will, provided such an executor enjoys the full legal capacity and civil rights.

The testator may also determine the mission of the will's executor. Otherwise, the mission of the executor shall be to manage the estate, pay its debts and distribute its assets as recommended by the testator, and within the extents permissible by law.

The executor shall be liable for his/her negligence and for the damages incurred by the estate due to his/her work. The general rules of an agent's liability shall apply to the executor.

2. ENFORCEMENT OF FOREIGN WILLS IN LEBANON

Lebanon is not currently party to the Convention of 5 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions; therefore, the provisions of the Lebanese civil procedure code shall be applicable to the enforcement of foreign wills in Lebanon.

According to applicable laws, for foreign judgments and decisions to produce their full effect in Lebanon, they must be subject to a special procedure requesting their 'exequatur' before Lebanese courts.

The request for exequatur must be submitted by one of the legatees of the will to the court of appeal of his/her place of residence or of the place of localisation of the assets gifted in the will, or otherwise, to the President of the court of appeal in Beirut, who would issue a decision approving or refusing the requested exequatur.

The decision to grant an exequatur for a foreign will to be recognised and enforced in Lebanon depends on the fulfilment of several conditions. In a nutshell, such

conditions pertain to: (1) the validity of the will's form, either under the laws of the country where it was construed or under Lebanese laws; and (2) the validity of its content that must be compliant with Lebanese public order, provided in all cases that the condition of reciprocity between Lebanon and the country where the will was formed be fulfilled whenever the testator is not Lebanese.

Among the main reasons for the court to refuse granting an exequatur to a foreign will is its violation of the forced heirship rule detailed below, which constitutes a breach of Lebanese public order.

### **III. Estate administration**

#### *A. Overview of administration procedures*

##### 1. ADMINISTRATION OF THE ESTATE

The Lebanese rule of conflict of laws provides for the application of the national law of the deceased to the estate administration. As with regards to the jurisdiction in inheritance matters, the courts of the last residence of the deceased shall have jurisdiction to administer the deceased's estate, according to the Lebanese civil law applicable to non-Mohamadi's inheritance.

This remains the case regardless of the place of situation of the deceased's assets, as the inheritance procedures under Lebanese law are considered under a universality principle. Furthermore, Lebanese courts have jurisdiction over the process of inheritance whenever the deceased is a Lebanese national, even if the demise occurred outside Lebanese territory.

The administration of the estate includes movable and immovable assets, without any statutory distinction as to the treatment of both types of assets.

Any heir can voluntarily waive his/her right to the estate of the inheritor. However, such a waiver can only be full (covering all the estate) and can only produce its effect if it occurs following the demise of the inheritor as pacts on future succession are prohibited by law. Furthermore, the withdrawal of inheritance is required to be clear, express, and declared by virtue of the certificate of inheritance detailed subsequently.

The administration of the estate can only be started by requesting the issuance of a certificate of inheritance before a competent judge.

## 2. CERTIFICATE OF INHERITANCE

The certificate of inheritance (*Hassr Erth*) under Lebanese law is a judgment issued by the first instance court – a single judge of the place of the last residence of the deceased. It has the function of officially declaring the death of the individual and stating its legal consequences, specifying the heirs of the deceased as well as their respective portions in the inheritance. This certification grants the heirs authorisation to dispose of the estate's assets after payment of inheritance taxes, in accordance with their respective shares, and therefore enforce and register the transfer of assets before the relevant entities (eg, banks) and authorities (eg, real estate registrar).

Any of the legal heirs or their legal representatives (duly appointed by a general Power of Attorney) can file a request for the issuance of the certificate of inheritance.

It is worth noting that, under Lebanese civil law, there is no room for the appointment of an executor or administrator when intestacy rules apply; the heirs shall then administer the inheritance process and execute any transfer of ownership under the supervision of competent courts.

The heir(s) requesting the issuance of the said certificate must provide the courts with the following documents:

- family record extract (*ekhraj kayd aa'ili*) issued by the local authority of the deceased's main residence or origin;
- death certificate (*wathikat wafat*) issued by the local authority of the place of demise;
- inheritance declaration statement (*ifadat hassr 'erth*) issued by the local authority of the deceased's residence (requires an individual record extract for each heir);
- copy of the deceased's identity card; and
- financial and rights declaration form – transfer fee (*namouthaj tasrih bi al'amwal w alhoukouk – rasm al'entikal*), representing an inventory of all the deceased's assets and rights.

Once issued, the certificate of inheritance has a value of a first instance 'gratuitous decision' (decision issued without any dispute), which can be challenged by any damaged party or third party to the decision before the same court that issued it within eight days of notification or within the duration of the general statute of limitation (ten years from the date of issuance) in case no notification was made.

A third party damaged by the decision of the inheritance certificate shall also be able to file for an annulment of such a decision for breach of law, within 30 days of being duly served a notification of the decision, or otherwise, for the whole duration of the time limit on his/her rights.

## *B. Intestate succession and forced heirship*

### 1. INTESTATE SUCCESSION

Upon the demise of the deceased, the estate shall be first allocated to satisfy, according to the civil inheritance law applicable to non-Mohamadi, the following order of payments: (1) what is necessary for conducting the funerals of the deceased; (2) the deceased's debts; and (3) what the deceased included in a will (within the extents permissible by law). The remainder shall be allocated to the deceased's spouse, if any, and the heirs of the deceased as determined by the law according to a three-class division:

- the first class is the deceased's children and their descendants;
- the second class is the deceased's mother, father and their ascendants; and
- the third class is the siblings of the deceased and their descendants.

### 2. STATUTORY ALLOCATION

The application of the intestacy rules in accordance with the Lebanese civil inheritance law shall lead to a certain allocation of the estate's assets, which depends on the class of the surviving heirs, as well as the cohabitation of classes of heirs.

The first class of heirs, that is, the inheritor's children and their descendants, shall inherit equally without any gender discrimination between males and females. If a deceased child exists among the first class of heirs, the latter's descendants shall replace him/her in the inheritor's estate and shall receive the same part that should have been allocated to his/her parent in being; this part shall be divided equally among them.

In the case in which the first class of heirs does not exist, the estate shall be allocated to the inheritor's parents in equal parts. If one of the parents is deceased, his/her part of the estate shall be allocated to his/her descendant(s) in equal parts. If the deceased parent did not have any descendants, the latter's part of the estate shall then be allocated to the other surviving parent. If both parents were deceased before the demise of the inheritor, the descendants of each of the parents should inherit equally the part of the estate that should have been allocated to their parent if he/she was alive.

In the case in which the deceased does not have any descendants in being, nor any parents or descendants thereof, the estate shall then be allocated to the grandparents. If one of the grandparents is deceased, then his/her descendants should equally inherit his/her part of the estate; otherwise, and in the absence of any descendants, his/her part of the estate shall be allocated to the other grandparent in being.

A sixth of the estate shall be allocated to the deceased's surviving parents, or one of them, whenever the deceased has descendants.

The inheritor's spouse shall inherit a quarter of the estate in the case in which heirs from the first class are alive; half of the estate in the case in which the inheritor's parent(s) or sibling(s) are in being; and five-sixths of the estate in the case in which only grandparents are in being.

In the event the inheritor's spouse is the only surviving heir out of the three classes of heirs listed above upon demise, the full estate shall then be allocated to this spouse.

If none of the heirs listed above survived the inheritor's demise, the estate shall be fully allocated to the state.

### 3. FORCED HEIRSHIP RIGHTS

#### a. Forced heirship principle and its application

The Lebanese civil inheritance law applicable to non-Mohamadi provides for a 'forced heirship' rule according to which a portion of an individual's estate is reserved to certain heirs in certain proportions. The said rule is applicable irrespective of the terms of the deceased's will and is considered part of Lebanese public order. That said, any will that surpasses the use of the disposable estate shall be reduced in proportion to the statutory reserved portions if contested by the forced heirship rights' holders.

The protected heirs under the Lebanese civil inheritance law are the inheritor's descendants, parents, and spouse. In the event the contemplated will breaches the forced heirship rule, only the protected heirs (or any of them), their successors, or representatives, are entitled to request the reduction of the will in accordance with the reserved portions.

For the purposes of the application of the said rule, the estate shall include the net assets of the deceased after deducting any debts thereof, in addition to all assets gifted during his/her lifetime, the value of which shall be estimated at the moment of their donation.

b. Reserved portions according to the forced heirship rule

The reserved portions of the protected heirs, being the inheritor's ascendants, spouse, and parent(s), are determined as a percentage of the deceased's estate, depending on whether such heirs survive the inheritor's demise individually or together with other protected heirs, as follows:

	<b>INDIVIDUALLY (EITHER, OR) (%)</b>	<b>DESCENDANT + SPOUSE + PARENT(S) (%)</b>	<b>DESCENDANT + SPOUSE/(OR) PARENT(S) (%)</b>	<b>SPOUSE + PARENT(S) (%)</b>
<b>DESCENDANT</b>	50	30	40	
<b>SPOUSE</b>	30	10	10	20
<b>PARENT(S)</b>	30	10	10	15 each

4. OTHER CATEGORIES OF HEIRS

The Lebanese civil law on inheritance sets forth special provisions applicable to natural (discriminatorily denominated 'illegitimate' in the law) and adoptive children, who shall inherit from their ascendants, but in lower portions compared with the first class of heirs, and under certain conditions as detailed hereunder.

The natural child contemplated by the provisions of the inheritance law is the child who was born from the union of two non-married individuals, who are not related in blood in a way that precludes their marriage, none of whom is married to a third party.

The natural child may be entitled to a portion of the inheritance only if the child's filiation to his/her inheritor parent has been acknowledged and declared, either willingly by the parent or by virtue of judicial proceedings, and the voluntary declaration of filiation can only produce effects if it occurs before the child reaches 18 years of age. However, the recognition of filiation produces its effects merely on its author.

In cases where the natural child is entitled to the inheritance, his/her inheritance portion shall be determined as follows:

- quarter of the portion the child would have been entitled to if he/she was legitimate, in the case where legitimate descendants of the inheritor are in being;
- half the portion the child would have been entitled to if he/she was legitimate, in the case where there are no legitimate surviving descendants, but only ascendants or legitimate siblings of the inheritor or legitimate descendants therefrom;
- three-quarters of the estate if none of the above heirs survived the inheritor's demise; and
- the full estate if there are no other surviving heirs.

The same principles shall apply to the inheritance of an adopted child with respect to the child's rights and portions in the intestate inheritance of the adoptive child's deceased parent. The same portions of rights are also applicable in the case of the deceased parent's will for both the natural and adoptive child. The law is, nonetheless, not clear on this matter, and case law has not had enough opportunities to develop it further. It is therefore assumed that the natural child and adoptive child have the same aforementioned portions applicable to their reserved parts in the will of their deceased parent.

It is worth noting that same-sex marriages are not allowed under Lebanese law, and therefore, all the categories of heirs provided for under the law are meant to be related to legally conventional marriages only.

Furthermore, the civil inheritance law applicable to non-Mohamadi does not foresee any inheritance rights in the case of a multiplicity of spouses as polygamy is not allowed under civil law.

### *C. Marital property*

Lebanese law does not foresee any matrimonial regime that shall govern marital property. In the absence of such a regime, the principle of separation of property applies to the assets of two married individuals, even if such assets were acquired by one of the spouses during their marriage.

Consequently, in the case of demise, each spouse maintains his/her own estate.

#### *D. Survivorship accounts and payable-on-death accounts*

##### 1. PAYABLE-ON-DEATH INSURANCE ACCOUNTS

In the event that insurance is contracted for the benefit of a third party(ies) without a determination of beneficiaries, or for the benefit of the insurer's heirs or successors, the insured accounts shall then be considered as part of the deceased's estate. Otherwise, and if insurance is contracted for the benefit of a determined beneficiary, the accounts payable thereof upon the demise of the insurer shall not constitute part of the deceased's estate. The beneficiary shall be considered entitled to such accounts as of the date of the execution of the insurance contract. Furthermore, insurance accounts do not form part of the estate, in the sense that neither insurance payable accounts nor the insurance instalments paid by the insurer during his/her lifetime shall be considered for the calculation of the reserved portions in application of the forced heirship rule.

If the nominated beneficiaries happen to also be statutory heirs and no indication as to the allocation of the accounts is made by the insured, the beneficiaries shall benefit from the payable amounts according to their respective portions of the estate. Their right as beneficiaries remains unchanged, even if they waive their inheritance right. The condition to be able to benefit from such a right is for the beneficiary(ies) to be alive when the payable accounts become due, unless expressly provided otherwise in the insurance contract.

##### 2. SURVIVORSHIP ACCOUNTS

Joint bank accounts have had a special status vis-à-vis the inheritance law since the enactment of the Lebanese law on bank joint accounts in 1961. According to this law, in the case of the demise of a co-holder of the joint account, the surviving co-holder is entitled to dispose of the joint account unilaterally and in full. In this case, the bank shall not disclose any information relating to the contemplated account to the heirs of the deceased co-holder, unless expressly provided otherwise in the contract governing the joint account. This said, and in principle, the liquidity of the joint account does not form part of the deceased's estate nor the deceased's lifetime donations, unless expressly stipulated otherwise in the documents of the joint account opening.

The attitude of Lebanese banks towards heirs is completely different when it comes to an individual account, in which case, the bank shall freeze the account until the issuance of the certificate of inheritance determining the heirs of the deceased and their respective portions of the estate, based on which the bank shall then transfer the remainder of the account to the nominated heirs.

## **IV. Trusts, foundations and other planning structures**

### *A. No trusts and no foundations*

#### 1. LEBANESE LAW IS SILENT ON TRUSTS AND FOUNDATIONS

Lebanese legal jargon does not comprise the term 'trust' nor 'foundation'. Both constructs are not governed by any law in Lebanon and are not recognised as such for succession planning purposes, which makes them a rare practice by Lebanese individuals, especially within Lebanese territories.

As a civil law system, the Lebanese legal environment does not convene the idea of the multiplicity of estates (*la divisibilite du patrimoine*) nor the affectation of the estate (*patrimoine d'affectation*), but, furthermore, expressly prohibits the conclusion of any agreement whose object pertains to a future succession of a living individual.

These principles make it harder for Lebanese individuals to consider the trust and foundation as mechanisms for structuring and planning within Lebanese territory; such planning can, in principle, be only reached through the available traditional means of a will and donations, besides few other legal constructions conventionally used for succession planning, as detailed in section IV.B below.

Indeed, in Lebanon, the concept of a trust is assimilated into what is known as a 'fiduciary', as detailed in section IV.B.1 below.

As for foundations, the absence of legislation in this regard creates a tendency to assimilate them into associations, which are statutorily the equivalent of a non-profit organisation or charity. That said, the legal nature of an association in Lebanon makes it difficult to use for succession planning.

#### 2. TREATMENT OF FOREIGN TRUSTS AND FOUNDATIONS

Over the past few decades, Lebanese nationals' interest in creating foreign trusts and foundations abroad has been growing.

As Lebanon has not ratified the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition ('HCCH 1985 Trusts Convention'), the country is placed 'off the map' of international trusts' recognition, and makes it harder to have clear and objective guidelines on trust enforcement in Lebanon. In principle, a trust or foundation created outside Lebanon might be enforced and recognised by Lebanese courts to the extent that its enforcement does not prejudice any legal provision in force and, notably, Lebanese public order.

There are specific legal provisions and public order principles that constitute core reasons for the refusal of the enforcement of a foreign trust or foundation in Lebanon, notably:

- a. Breach of the statute governing the acquisition of real estate property by non-Lebanese persons

Legislative Decree No 11614 dated 4 January 1969 and its amendments (notably Law No 296/2001) set forth prohibitions and limitations pertaining to the acquisition by non-Lebanese persons of real estate rights in Lebanon. According to the said decree, non-Lebanese persons (physical and legal entities) are not allowed to acquire, whether directly or indirectly (through companies), more than 3,000 sqm<sup>2</sup> across the total surface of Lebanon without special permission.

Above this ceiling, the acquisition by non-Lebanese persons of real estate property in Lebanon requires a presidential decree. However, the law does not set forth any objective conditions for obtaining such a decree, the issuance of which remains at the discretion of the President of the state.

Consequently, a foreign trustee who shall become the legal owner of real estate property situated in Lebanon must abide by the aforementioned limitation in force. Any structure that violates these principles will not be recognised nor enforced in Lebanon, and can trigger the application of criminal sanctions.

- b. Violation of the Lebanese public order

A typical example of a public order rule in succession law is unequivocally the forced heirship rule set forth in the civil inheritance law applicable to non-Mohamadi. The said rule has been endorsed by Lebanese courts as a mandatory rule, the violation of which, by any means, shall prevent the recognition and enforcement of the related mechanisms by Lebanese courts, if challenged.

In practice, if the structure of a foreign trust or foundation reduces the rights of the heirs protected by the forced heirship rules to less than their statutorily reserved portions, the heirs shall have the right to raise their right to ownership before courts and object to the enforcement of the contemplated structure.

Finally, Lebanon does not offer any tools for trustees' liability, for protecting the prejudiced interests of beneficiaries or for enforcing sanctions where necessary.

### 3. THE ONLY RECOGNISED TRUSTEE DUTY: A FISCAL OBLIGATION

Although Lebanese legislation does not govern the legal construct of a trust, nonetheless, it foresees a fiscal obligation for Lebanese residents who act as trustees for trusts created outside Lebanon.

The only Lebanese law currently in force that mentions the term 'trust' is Law No 74 dated 27/10/2016, according to which, any individual residing in Lebanon and carrying out, on a professional basis or not, a trustee activity for a foreign trust, regardless of its nature or type, shall mainly declare his/her activity and pay taxes on the income generated by the trustee's activity.

#### *B. Available planning structures and techniques*

The only structure made available by Lebanese legislation for wealth planning and management are, on the one hand, the fiduciary, reserved however for banks and financial institutions and subjected to restricted conditions, and on the other hand, the *wakf*, a construct inherited from the Ottoman era and maintained in place for specific purposes. These tools are practicable without prejudice to the rooted principle of prohibition of pacts pertaining to future successions.

## 1. FIDUCIARY

The fiduciary contract was introduced in Lebanon for the first time in 1996 by virtue of Law No 520 titled 'Development of the Financial Market and Fiduciary Contracts'. The relatively newly established fiduciary is merely financial, aiming in reality, as its title indicates, at developing financial markets rather than serving as an estate planning tool.

According to the said law, only banks, financial establishments, and other establishments regulated by the Central Bank have the authority to act as fiduciary agents. The conveyance of assets to a fiduciary entails the transfer of the ownership of such assets, which the fiduciary has to keep separate from his/her personal estate. The investor may act as either the grantor or the beneficiary in this arrangement.

The fiduciary shall act on behalf of the beneficiary, and the latter shall bear responsibility for the economic decisions that the former takes. Additionally, the decisions taken by the fiduciary shall always be for the benefit of the beneficiary and not for his/her personal gain. It remains that fiduciary contracts shall be void if they do not abide by Lebanese public order.

## 2. WAKF

The *wakf* is an Ottoman-inherited construct that manifests itself in the perpetual immobilisation of an asset, whose revenue shall then be consecrated for charity purposes. The *wakf* can be either religious (*wakf Khairi*), whereby the property is immobilised for the benefit of a charitable institution that receives all the income deriving therefrom, or domestic (*wakf ahli, zirri*), attributed to a certain category of beneficiaries determined by the settler for a certain period. The period shall be limited to two family generations, after which the immobilised property shall be transferred to a charity or be affected to the public interest.

The *wakf* is a legal person created by virtue of a unilateral act that shall have the effect of immobilising a property owned by the settler when executing such an act. The executed act will then have the effect of making the property inalienable, non-transferable among living individuals, non-transmissible upon death and protected from any mortgage.

The *wakf* will be represented and managed by an administrator. It is irrevocable and can only produce its effects upon its registration before the real estate registrar to which the property is affiliated. One of the major advantages of establishing a

*wakf* is benefitting from statutory tax exemptions as detailed under section V below, provided that the *wakf* remains in conformity with its limited purpose and does not compete with commercial enterprises.

The *wakf* is not a practical construct for estate planning because its enforcement is not clear in law nor protected by courts; thus, it is not currently a common practice in Lebanon, except to a certain extent by some religious orders and a few families through structures conceived decades ago.

### *C. Alternative legal vehicles used for estate planning*

In the absence of specific efficient legal constructions for estate planning and structuring in the Lebanese legal environment, Lebanese nationals have created some conventional habits of using general legal tools for the purpose of planning and structuring, such as agencies, companies and bank accounts under a specific regime.

#### 1. AGENCY

Lebanese individuals have made it a habit to use the concept of an agency for the management and transfer of property by appointing an agent via the execution of a procuration (proxy) also known as a power of attorney (PoA).

Such an appointment would vest the agent with full rights in relation to the contemplated property, allowing him/her to carry out all transactions in relation thereto, including managing and transferring the property to oneself or to whoever he/she chooses. If the procuration is made irrevocable, such rights of the agent shall remain valid following the demise of the person represented.

Procurations can be typically used to authorise a foreign individual/company to act as a trustee if the settler's objective is to appoint a professional trustee to merely manage the Lebanese property for the benefit of the beneficiaries. Without the trustee being the legal owner of such property (in the strict sense of ownership given by real estate law in Lebanon), the trustee will be able to transfer the ownership of the Lebanese property to the beneficiaries according to the settler's wishes by registering the property under his/her name by virtue of his/her procuration. However, being entitled through a PoA without a real transfer of property does not enable the application of any tax exemptions set forth for trusts; it is merely a management tool.

Irrevocable procurations are often used in a way to appoint the beneficiaries themselves as agents of the owner, vesting in them all rights pertaining to the property, in an attempt to avoid the application of inheritance laws and to distribute the estate according to the personal wishes of its owner.

Although rooted as a Lebanese common practice, procuration as such is not legally recommended if it aims at serving as a screen for a disguised sale. If doubted to be so by authorities and proved as such, any assignment of rights in the property or transfer of such property via an irrevocable PoA will be subject to inheritance taxes; the case will automatically be so if the demise of the person who executed the irrevocable PoA occurred within two years of its execution.

## 2. REAL ESTATE COMPANIES

For a while, real estate companies in Lebanon (companies whose main objective is the acquisition, management and sale of real estate property) were a preferred tool for families to manage their immovable property. Indeed, the acquisition of an immovable asset by a joint-stock Lebanese company through its capital benefits from a lower acquisition tax (two per cent) in comparison with what is levied from an individual upon purchase of a property (around six per cent). Furthermore, the regime of a joint-stock company in Lebanon generally benefits from an exemption of taxes on the transfer of shares. Families are able to decide and change their minds easily as to the distribution of shares in these companies as assignment of shares is made tax free.

However, since the enactment of the 2022 Budget Law, the transfer of shares held in real estate companies is no longer tax free. A three-per-cent tax now applies to the assignment of shares for a Lebanese shareholder and a five-per-cent tax on that for a foreign shareholder.

Despite some advantages that the real estate entity presents, it should be recalled that its structure is governed by the Lebanese code of commerce, which imposes some limitations with regard to the nationality of shareholders and board members, in addition to the limitation on real estate acquisition by foreigners, which remains applicable, even if the acquisition occurs indirectly, that is, through a real estate company.

## 3. JOINT BANK ACCOUNT

As detailed in section III.D.2 above, joint bank accounts benefit from a special regime in Lebanon that allows the exclusion of the assets in these accounts from the inheritance estate of the deceased co-holder. In practice, people tend to use this special regime as a planning tool through which they can ensure the automatic transfer of the account to the co-holder(s) that they choose, without the application of inheritance law to this account.

## **V. Taxation**

### *A. Territoriality and residence*

Inheritance taxes in Lebanon are, in principle, levied on all movable and immovable assets situated in Lebanon and transmitted by a Lebanese or non-Lebanese person upon demise, regardless of the inheritor's usual place of residence or domicile, but without prejudice to contrary dispositions of international tax conventions. Inheritance taxes are also due on all movable and immovable assets situated outside Lebanon and transmitted upon the demise of a Lebanese or non-Lebanese person who was resident in Lebanon prior to such demise.

That said, tax liability upon inheritance relies on both territoriality and the residence principle, with priority for the latter, without prejudice, however, to contrary provisions of bilateral tax treaties.

The criteria of 'residence' for the purpose of levying inheritance taxes are defined in Decree No 2827/1959. According to the decree, considered as residents for inheritance tax purposes are deceased individuals who were residing in Lebanon prior to their demise or had an enterprise in Lebanon where they used to carry out an activity. In 2016, an amendment to Law No 44 with respect to the definition of 'tax residency in Lebanon' added that any individual is considered tax resident in Lebanon, in addition to the aforementioned criteria, if one:

- has a house in Lebanon permanently available to one's family members (ie, spouse and dependent children); or
- is present in Lebanon for more than 183 days in any given 12-month period.

### *B. Inheritance and gift taxes*

#### 1. INHERITANCE TAX

Several steps are required for the determination of the taxable amount pertaining to inheritance and the calculation of the tax due.

First, an inventory of the deceased's assets shall be identified and established, as well as the debts of the inheritance. It will then be possible to determine the portion of inheritance of every heir on which a progressive and linear tax rate shall be applicable, following the application of deductions and allowances depending on the personal and social status of each heir.

The valuation of assets pertaining to inheritance relies on the detailed declaration and estimation provided by the heirs as assessed by the administration. The assets transferred through inheritance are valued at their real market value captured at the day of the demise, the date upon which inheritance tax becomes due.

According to Legislative Decree No 146/1959 that determines the taxes applicable to gift and inheritance, taxes apply to certain assets, which include, in addition to the assets mentioned in section V.A above:

- all movable and immovable assets transferred during the two years preceding the demise of the inheritor, whether directly or through a nominee/agent, to an heir or legatee having such quality at the moment of the transaction;
- the financial securities and other assimilated assets (shares, titles, funds, etc) that are given and/or registered under the name of an heir or legatee and transferred by the inheritor during the year preceding the demise; and
- the amounts and securities deposited in joint or collective bank accounts, or in safe-deposit boxes, which shall be considered as equally owned by all the holders of the account or the safe, unless the contrary was proved.

Although it might seem difficult for the fiscal administration to establish concealment pertaining to the value of inherited assets, tax inspectors benefit from a wide variety of verification tools to control the price and valuation of an asset. Such tools include carrying out investigations through field visits or via comparison with recent similar transactions.

## 2. GIFT TAX

Even though Law No 520/1996 is silent with respect to tax liability, gift tax might apply to certain fiduciary transactions carried out under fiduciary Law No 520/1996 detailed above, notably when such transactions operate a free transfer of an asset or a movable right constituting the fiduciary fund to a third-party beneficiary, through the fiduciary or trustee.

Gift tax is also relevant for manual donations, operated by a simple tradition from hand to hand. Practically, some manual donations pertaining to certain tangible and movable assets (eg, jewellery, stones, furniture and similar objects) or tangible securities escape any taxation despite the clarity of legal provisions requiring the declaration of such donations to tax authorities and imposing a tax right on these assets. In fact, the tax administration is not capable of detecting the existence of these assets nor of tracing their transfer from one person to the other. Therefore, it remains very difficult for tax authorities to establish an inventory of manual donations and to include them in the inheritance mass of the deceased in order to tax them.

### 3. CALCULATION OF INHERITANCE AND GIFT TAX

Once the certificate of inheritance and other documents required are deposited before tax authorities, the tax administration will evaluate the succession file and proceed with additional verifications or valuations, if needed, in order to reach a final valuation of assets based on which the taxes are calculated. A tax notice will then be delivered separately to each heir. Therefore, if one or more heir(s) do(es) not pay the tax due on his/her portion of the inheritance, the inheritance process shall not be blocked for the other heirs according to the principle of the autonomy of each inheritance portion.

Taxes levied on inheritance are of two types: (1) a fixed tax rate of five per mille due on the gross inheritance portion of each heir; and (2) a progressive tax rate that varies depending on the class of heirs and which applies to the net value of each heir's portion of the estate after relevant deductions.

<b>Imposable tranches</b>	<b>Categories of taxpayers</b>				
	Descendants and spouses (%)	Father and mother (%)	Ascendants other than mother and father, siblings (%)	Uncle or aunt, nephews and nieces (%)	Other taxpayers (%)
<b>Up to LBP 1.8bn<sup>1</sup></b>	3	6	9	12	16
<b>From LBP 1.8 to 3.6bn</b>	5	9	12	16	21
<b>From LBP 3.6 to 6bn</b>	7	12	16	21	27
<b>From LBP 6 to 12bn</b>	10	16	20	26	33
<b>From LBP 12 to 21bn</b>	12	18	24	31	39
<b>Above LBP 21bn</b>	12	18	24	36	45

The fixed tax rate is five per mille for all movable and immovable assets transmitted to the heirs, after the deduction of LBP 200m from the gross value of such assets.

<sup>1</sup> The equivalent in USD of all amounts mentioned in Lebanese Pounds (LBP) is calculated on the date of writing this guide at the rate of 89,000 LBP/USD.

The progressive tax is levied on the net inheritance portion transmitted to an heir or transferred to a recipient, according to the rates detailed in the table below and after operating the deduction of relevant exemptions detailed thereunder.

The payment of inheritance tax can be made in five equal instalments, with an interest of one per cent per month. In this case, the public treasury has a priority creditor right on the mass of assets transmitted and can proceed with the inscription of such a right before the real estate registrar for property, as well as before the commercial registrar in respect of corporate structures.

#### 4. INHERITANCE TAX AND GIFT TAX DEDUCTIONS AND EXEMPTIONS

Once the valuation of the inheritance is established, tax authorities will be able to determine the value of the tax base out of which inheritance taxes shall be levied. They will then apply the multiple exemptions and deductions set forth by the law.

##### a. Deductible charges

Tax is levied on the net value of the transmitted inheritance portion after the deduction of certain charges, such as the debts due on the estate and supported by documents of proof, including funeral expenses and the fixed tax rate of five per mille and other types of debts previously contracted by the deceased.

##### b. Exemptions

Some exemptions on inheritance taxes pertain to the inherited assets, while other exemptions are personal, and depend on the personal and social status of each heir.

Exemptions pertaining to the transmitted assets include:

- retirement pensions and termination indemnities, including all amounts paid in relation thereto;
- the value of securities exonerated by virtue of a special legal provision;
- portraits and sculptures representing the deceased and/or his/her family members, and considered as personal objects; and
- libraries, decorations, old books, stamps and other collections, as well as furniture existing in the domicile of the deceased within the limit of a maximum of LBP 40m.

Personal exemptions concern the tax due on the net inheritance portion of each heir not exceeding:

- LBP 600m for the descendants, spouses, the father and the mother of the deceased;
- LBP 240m for the ascendants other than the deceased's parents, as well as for his/her siblings; and
- LBP 120m for the other heirs.

The following shall be added to the value of the exonerated portion of the deceased's children:

- LBP 360m in the case in which the child suffers from a permanent disability rendering him/her unfit to work;
- LBP 24m on the year or fraction of the year preceding the 18th year of age of the minor child;
- LBP 240m when the heir handles the expenses of a spouse; and
- LBP 120m for every child that has not reached 18 years of age (for a maximum of three children).

As for the gifts, the amounts exempted from tax rights include the following:

- the aids and subventions offered by a public fund;
- any gift and the part of the gift not exceeding LBP 14.4m; and
- any donation or portion of a donation for a caritative, religious, cultural or sports charity not exceeding LBP 900m.

## 5. TAXATION OF TRUST, FOUNDATION AND WAKF TRANSACTIONS

### a. Taxation of a trust

Lebanon does not have a law governing a trust as such; neither does it offer any particular tax regime for a trust. Consequently, trust transactions concerning Lebanese assets or Lebanese individuals will be analysed, characterised on a case-by-case basis and assimilated to a certain existent tax regime. The choice of the applicable tax regime will depend, inter alia, on the legal person of the settler (company or individual), residency, the location of the assets and the nature of the trust (revocable or irrevocable), and hence on the characterisation of the transaction as a gift or will.

Based on Lebanese tax principles and foreign comparative laws (notably France and Luxembourg), we have reasons to believe that as long as the trust is revocable (ie, the settler has the right to revoke the trust or have all, or a portion, of the trust property returned to him/her), the designation of different classes of beneficiaries in the trust deed by a resident settler or for Lebanese located assets will not trigger tax consequences itself; as, for instance, liability for a gift tax.

Hence, tax will not, in principle, be due out of the mere creation of the trust nor the transfer of Lebanese assets from Lebanon to the trust account abroad. This analysis is supported by the opinion of some tax advisers in Lebanon, but is yet to be practically confirmed by legislative text or fiscal authorities.

In the event that the trust becomes irrevocable due to the settler's demise, two scenarios should be considered:

- If the settler was not a Lebanese resident upon demise, Lebanese authorities would not have the power to impose any taxation in this regard.
- If the settler would be residing in Lebanon upon his/her demise, the integral value of the trust fund would most probably be imposable under Lebanese inheritance tax, in accordance with the principles stated above.

Conversely, an irrevocable trust designating heirs or third parties as beneficiaries (irrespective of the class of beneficiaries) can constitute, as some eminent Lebanese tax advisers believe, a donation that would be subject to gift tax in Lebanon upon the creation of the trust, and subject to declaration within 90 days of the establishment of the trust in accordance with the provisions of the aforementioned Legislative Decree No 146 dated 12 June 1959 and its amendments.

Another tax liability triggered by the trust is the one of Lebanese-resident beneficiaries. In cases where beneficiaries of any trust are tax residents in Lebanon, the latter are liable to tax on income generated and distributed from the trust's assets.

According to the Lebanese Income Tax Law, income from movable assets is treated independently from business revenue or wages and salaries. Under the said law, any income from movable assets (interest, dividends, arrears, bonds, etc) whether derived in Lebanon or reverting to a Lebanese resident (local and foreign proceeds) is considered as liable to the local (Lebanese) tax.

Practically, the tax liability of capital gains on movable revenue is on the beneficiary's worldwide income at the rate of ten per cent whenever deemed residing in Lebanon; except as specified in a double taxation treaty (if any), and provided that that revenue is effectively distributed or paid to the beneficiary and not capitalised or carried forward.

The declaration and payment by the beneficiary of the tax on revenue from movable assets is possible under two procedures:

- If the payment is made by or through any Lebanese-resident person entitled to withhold tax payments (mainly banks and similar), the latter will be bound to withhold the applicable tax of ten per cent and remit it to the Treasury at the end of each semester.
- In the event the beneficiary of the foreign shares/bonds and movable assets, domiciled in Lebanon, collects abroad, personally or through an agent, proceeds deriving from the said shares/bonds or movable assets, the beneficiary will be compelled to file a declaration (tax return) of the said taxes before 1 March each year showing the total amount of earnings collected during the preceding year and pay it to the Treasury before 1 April.

The last tax liability generated by the creation of a trust is that of a Lebanese resident trustee. Based on Law No 74 dated 27 October 2016 detailed in section IV.A.3 above, a Lebanese resident carrying out trustee activities for a foreign trust is liable to the declaration and payment of income tax in Lebanon, based on the real profit tax regime, on the totality of income generated out of such activities. The rate of income tax will depend on whether the trustee is a legal entity, in which case the Corporate Income Tax (CIT) rate will be applicable, or an individual, in which case the personal income tax (PIT) rate will be applicable.

b. Taxation of a foundation

Since foundations are not governed by Lebanese laws nor by any specific tax regime, the applicable tax regime for the creation of foundations will be assimilated into an existing regime, depending on the characterisation applied by judges or authorities to such a foundation.

If characterised as an association (the most common scenario, as previously explained), the foundation will be exempt from CIT, as well as capital gains tax (in the case of a transfer of property) and will only be liable for gift taxes on funds received, with an exoneration amounting up to LBP 900m on funds received, provided the foundation remains in compliance with the association principles and avoids generating commercial revenue.

c. Taxation of *wakf*

Religious *wakf* (*wakf Khairi*) is subject to the fiscal regime applicable to public authorities, exempt from any direct and indirect tax, and any tax assimilated thereto. Domestic *wakf* (*wakf ahli*) is subject to the fiscal regime of associations, as detailed above, provided its scope of activity remains limited to the charitable objectives and that it does not compete with private corporations.

### *C. Taxes on income and capital*

#### 1. CORPORATE INCOME TAX (CIT)

The income tax law offers different regimes of declaration for levying the CIT, depending on the legal type of the corporation. The most common regime, that is, the 'effective gain', is mandatory for joint-stock companies (including offshores and holdings) and optional for limited liability companies. It is established at the rate of 17 per cent. Companies may also be liable for capital gains tax of 15 per cent (as of 2017).

Lebanese resident shareholders are liable to a ten per cent tax on effectively distributed dividends, without prejudice to applicable double taxation treaties (if any).

#### 2. PERSONAL INCOME TAX (PIT)

According to the principle of territoriality, taxes on salaries are due in Lebanon if one of the following conditions is met:

- the beneficiary of the salary is resident in Lebanon, regardless of the source of funding;
- the services that triggered the income are executed on Lebanese territory or have contributed to the welfare of a company located in Lebanon, even though the source of funding is outside Lebanon; and
- the source of funding is in Lebanon, regardless of where the beneficiary resides or where the effort was made.

PIT is levied on wages and salaries at progressive rates. Based on the 2024 Budget Law, it is between two per cent and 25 per cent, on an annual payroll tax bracket of LBP 360m and LBP 13.5bn.

Individuals are also liable to ten per cent capital gains tax on income derived from foreign assets.

#### 3. NON-RESIDENTS

Revenue earned by non-residents in Lebanon is subject to an effective tax rate of 3.4 per cent of revenue in the case of revenue from the sale of materials and equipment and 8.5 per cent of revenue in the case of the sale of services. The non-resident tax is a withholding tax.

#### 4. PERMANENT ESTABLISHMENT (PE)

For now, there are no clear provisions on Lebanese income tax levied on PE, as PE is not clearly defined. The local rules and regulations refer to the basic principles of transfer pricing and anti-avoidance rules.

- For corporate taxation, an entity is considered resident if:
  - it is established or registered in accordance with Lebanese law; or
  - it conducts business from a fixed place in Lebanon for a period exceeding six months in any 12 consecutive months for public contracting work (or for a period exceeding three months in any 12 consecutive months for other activities).
- For individual taxation, a physical person is considered resident if he/she meets one of the following conditions:
  - has a fixed place of doing business in Lebanon;
  - maintains a permanent home in Lebanon used for his/her usual residence or for the usual residence of his/her family; or
  - stays in Lebanon for more than 183 days continuously or intermittently in a period of 12 consecutive months.

Transit stay and stay for medical treatment are not counted in the computation of the stay period. Registration as a licensed professional triggers residency.

In practice, the rules of PE may be applicable, for instance, to entities that do not have an establishment in Lebanon yet carry out activities in Lebanon through personnel who generate revenue out of it.

#### 5. TAX ON INTEREST

As per Law No 144 of the Budget Law issued in 2019, income, revenue and interest earned from accounts opened at Lebanese banks and from treasury bonds are now subject to ten per cent withholding tax.

#### 6. DOUBLE TAXATION TREATIES (DTTs)

Lebanon currently has 29 DTTs with foreign jurisdictions, including Armenia, Algeria, Bahrain, Belarus, Bulgaria, Cyprus, the Czech Republic, Egypt, France, Iran, Italy, Jordan, Kuwait, Morocco, Malaysia, Malta, Pakistan, Poland, Qatar, Romania, Russia, Senegal, the Sultanate of Oman, Syria, Tunisia, Turkey, the United Arab Emirates, Ukraine and Yemen. DTTs mainly eliminate double taxation on income such as income derived from dividends, salaries, capital gains, interest gains and royalties. The DTT with France includes further details, such as the method of elimination of double taxation for gift tax and inheritance tax.

## 7. COMBATTING TAX EVASION, EXCHANGE OF INFORMATION AND COMMON REPORTING STANDARD (CRS) STANDARDS

Lebanon has taken many actions to further combat tax evasion and enhance transparency, which is part of the process to arm tax authorities in Lebanon to better trace and sanction tax evasion attempts.

The adoption in 2015 of Law No 44 on Fighting Money-Laundering and Terrorism incriminated tax evasion by including it as a crime that can be a source of money laundering.

Tax evasion was defined subsequently by the Budget Law of 2019 as the act of 'knowingly and intentionally refraining from declaring and/or paying the taxes and duties due to the State and payable on the income or on the fortune, and/or refraining from paying or remitting the taxes a person has the obligation to withhold at source, and/or declaring lower taxes or withdrawing the declaration and payment in an illegal manner by the use of illegitimate means'.

Lebanon has also signed the Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of financial account information based on the CRS framework, which was ratified and implemented by the domestic Law No 55/2016 on the Exchange of Information for Tax Purposes, to facilitate the automatic and non-automatic exchange of information between Lebanon and other participating jurisdictions. Consequently, Lebanon has committed to implementing the CRS for the automatic exchange of financial account information according to which financial institutions in Lebanon are required to identify and report financial accounts held by tax residents of CRS-participating jurisdictions to the Lebanese authorities, who will then exchange this information with the tax authorities of those jurisdictions on an annual basis. The practical implementation of the automatic exchange of information and CRS is determined by Decree No 1022/2017.