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TAGLaw/TIAG Conference - Tax Specialty Group Julie Wynne

**Wealth planning in Switzerland**



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**Why international private clients use Switzerland for their wealth planning?**

1. Liberal and flexible system across all aspects of wealth planning (from matrimonial aspects to inheritance matters)
2. Most wealth planning tools are available: from pre-nuptial agreements, wills to trusts and private foundations
3. Tax efficiency
4. Strong reputation and capabilities for off- and on-shore wealth planning

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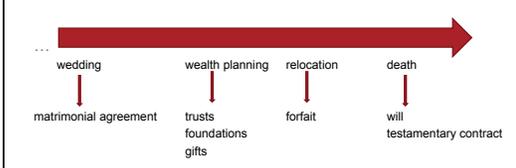
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**The lifetime of a HNWI and wealth planning opportunities in Switzerland**



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**I. Matrimonial issues**

- > Matrimonial property regime is governed by the law chosen by the spouses (with or without retroactive effect), failing which the law of their common place of residence applies.
- > Ordinary matrimonial property regime: participation in accrued gains
- ❖ Choice of Swiss matrimonial regimes (separation of property; participation in accrued gains; community of property).
- ❖ Spouses can freely adopt/amend any regime by marital agreements (pre-/post-nuptial), which are legally binding and fully enforceable.

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**II. Wealth planning - Trusts**  
**a) The Swiss Landscape for Trusts**

- > Among the 10 global financial centres, Switzerland is the only one without its own trust law (Global Financial Centres Index 7)
- > No "Swiss trusts"
- > Since 1<sup>st</sup> July 2007, the Hague Trust Convention (HTC) ensures the full and complete recognition of trusts in Switzerland.
- > Experienced trust industry (STEP, Swiss Association of Trust Companies)
- ❖ Absolute freedom to select whatever trust law the settlor wishes.

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**II. Wealth planning - Trusts**  
**b) Swiss Taxation of Trusts**

- > A trust is *per se* not subject to any Swiss taxation – it is not a taxable entity.
- > Swiss-based trustees and/or protectors are not liable for any Swiss taxation on the trust assets.
- > 2007/8 circulars on taxation of trusts

**i** ❖ Pre-immigration trust: complete tax neutrality for settlors and beneficiaries, who benefit from lump-sum taxation (*forfait*).

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**II. Wealth planning - Trusts**  
**c) Advantages/Disadvantages to use a Swiss resident trustee**

- > **Advantages**
  - > Dealing with Swiss banks and asset managers
  - > Tax advantages
- > **Disadvantages**
  - > Lack of specific supervisory regulation
  - > Risk of trust litigation in Switzerland

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**II. Wealth planning - Private foundations**

- > Under Swiss law, only foundations set up for family members whose sole purpose is to provide for the education, professional establishment or financial aid of family members are allowed.
- > Swiss law prohibits maintenance foundations that makes distributions and grants other economic benefits to certain members of a specifically designated family in order to support them outside the narrow scope permitted by Swiss law.

**i** ❖ Foreign family foundations are recognized in Switzerland, as this recognition is not contrary to Switzerland's public policy (*ordre public*)

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**II. Wealth Planning**

- ❖ Set up of trusts and private foundations for estate planning
  - > Avoid probate procedure and death duties
  - > Recognised in Switzerland
  - > Subject to the usual limitations:
    - Proprietary effects of marriage
    - Inheritance rights, especially claw-back claims if the governing inheritance law applies forced heirship regime
    - Public policy (*ordre public*)

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**IV. Inheritance and Cross Border Estates Rules**

- > Principle: unity of succession and domicile as connecting factor
- > Recognition of foreign wills: Switzerland is party to the 1961 Hague Convention on the Conflict of Laws relating to the Form of Testamentary Dispositions
- > Forced heirship regime BUT it is not part of Swiss public policy

- ❖ *Professio juris*: testator can opt out of Swiss law and have his national law govern his estate.
- ❖ Testamentary contracts with/among heirs

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**V. Conclusions**

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Thank you for your attention.

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