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/ DEATH OF A SHAREHOLDER : FREE ZONE COMPANY WILLS

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Death of a Shareholder : Free Zone Company Wills

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“It is for the shareholder to decide if they want to leave the share distribution to the local Shariah laws or want to choose the distribution themselves”

The Grid: The DIFC Wills & Probate Registry (“the Registry”) has recently launched the first Free Zone Company Will. What protection does this provide shareholders and which free zones does it encompass?

Sean Hird: The Registry launched the Free Zone Company Will in response to the marketplace. It was created as an alternative to the full DIFC Will for cash, car, property, and children. and designed for people who had shares in a free zone company but no other tangible assets here.

So in essence, we are empowering people with the provision of an online template that is specific to free zone companies and is easier and cheaper to put in place because they do not need any bespoke drafting.

It encompasses up to five separate shareholdings in any free zone or RAKICC company situated in the Emirate of Dubai or Ras Al Khaimah.

The Grid: Can a Muslim shareholder of a free zone company register the Free Zone Company Will?

Sean Hird: As with all Wills registrable at the DIFC, to be eligible, the registrant must be a non-Muslim or someone who has never been a Muslim, in fact.

The Grid: So it's only for non-Muslims because Muslims default to local Shariah law.

Sean Hird: Yes, that's correct.

The Grid: How exposed then are non-Muslim shareholders without the Free Zone Company Will if they leave it to chance?

Sean Hird: If you are a free zone company shareholder and you pass away, your shares will be subject to Shariah law, which provides a clear and prescribed distribution of assets. It is for the shareholder to decide if they want to leave the share distribution to the local Shariah laws or want to choose the distribution themselves.

We have a UAE Inheritance Calculator on our website, where you can plug in your own personal circumstances to see the distribution under the local Shariah law. You may be fine with the way it looks or decide to register a Will with the Registry for more say in what happens to your shares.

The Grid: What if you put the Will in place but then decided to wind down your free zone company or transfer it onshore?

Sean Hird: If you wind down your free zone company, it is no longer an asset in your Will. If you sold it or created an onshore entity, you would need to register a full DIFC Will as it does not distinguish between free zone and onshore. Your other assets, including cash, car, property and children, could all be included in that Will too.

The Grid: What is the procedure and how easy is it to do the Will yourself?

Sean Hird: The template is online on our website. You will be required to designate an executor, the beneficiaries and provide share deed details.

There is a meeting to register the Will, which takes approximately 30 minutes and includes a face-to-face meeting with the registry officer, who also acts as a witness. You will be asked to bring a second witness.

In the event that the shareholder passes away, there will be a probate order that gives authority to the executor to effect the transfer.

The Grid: So you don't need a lawyer?

Sean Hird: You do not need a lawyer to complete the online Will template nor to register it.

Needless to say, you should be mindful that the Will only provides instruction on the transfer of shares in the event of the shareholder's death.

In other words, it gives instruction on how many shares should be transferred and allows the shareholder to select the executor and beneficiaries. It only covers one part of the 'new reality' should a shareholder pass away.

You may require a lawyer to advise you on how these shares will actually be transferred if there are other multiple shareholders or if the company is subjected to provisions that might impact the transfer of shareholdings such as voting rights and other considerations.

The Grid: How much does it cost to set up the Will and could you provide an indication of ongoing costs as and when amendments are made to shareholdings and other variables?

Sean Hird: The fee is AED 5,000 to set up for a single will and AED 7,500 for a 'mirror will' or husband and wife will. We have payment plans with different banks so this fee can be spread out over the course of a year. For ongoing amendments to beneficiaries, executors, shares and the like, the fee is AED 550 per amendment.

June 23, 2017

This is an extract from an interview with Sean Hird, Director, DIFC Wills and Probate Registry.

The DIFC Wills and Probate Registry (the 'Registry') is a public entity of the Dubai Government and an ancillary body of the DIFC's Dispute Resolution Authority established by Resolution Number 4 of 2014 issued by HH Sheikh Maktoum bin Rashid Al Maktoum, the President of the DIFC. It was established to provide non-Muslims with assets and/or children in Dubai with the option to choose the DIFC Courts through which to enforce their inheritance wishes as an alternative to other judicial routes.

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