

Do I need a Will in the Seychelles?

If I had spent many years building wealth and going through the process of taking funds offshore to invest them wisely, I would personally like to ensure they were passed on to my heirs as smoothly, efficiently and speedily as possible.

How do I make sure this happens?

There are three factors to consider and understand:

1. What is the asset I am invested in?
2. How does the country where the asset is held treat foreign-owned assets?
3. How will this affect the winding up of my estate and transfer of my assets to my heirs?

1. The Asset

An Orbvest Medical Suite investment, taking a very high-level view, is a property in the US owned by a Seychelles company, listed on the Seychelles Stock Exchange (MERJ), on which most of you hold shares.

Why the complex structure? PKF Capital selected this vehicle for OrbVest because it is very cost-effective and hugely tax-efficient. Basically, it allows the investor to earn the highest possible return while indirectly investing in US real estate. Another huge benefit is that the investor does not need to register for US taxes.

Most clients buy these investments because they deliver great cash flow through dividend payments and have upside capital growth potential when the medical suite is sold. Although the shares can be sold on the exchange, this is not often the investor's initial intention, since MERJ currently does not necessarily offer high levels of liquidity. Therefore, the timing of the sale becomes hugely important.

2. How do the Seychelles courts treat deceased foreigners' assets?

The Seychelles does recognize forced heirship for Seychellois-owned assets, and for foreign-owned assets where no will is present. The Seychelles courts also recognize wills made by foreigners in their domiciled jurisdiction, written according to the laws of the foreigner's domicile, providing the will accurately outlines the Seychelles assets.

It may not be as simple as this, due to language differences and differing legal terms between jurisdictions. Therefore, it is always advisable to have a will drafted in the country where your assets are held. The issuing and safeguarding of such a will can be very costly. In the Seychelles, a will is generally dictated to a notary public which would cost roughly USD 1,500. Safekeeping

this will costs about USD 500 a year.

3. How will my estate be wound up?

If your local will encompasses both your domiciled assets and the Seychelles-based OrbVest investments, your wishes will be carried out. How long could this take?

According to a report from EY, the average estate in South Africa takes between nine months and two years to be wound up. When assets are held in a foreign jurisdiction, the winding up can be drawn out even longer, depending on the liquidity and complexity of the assets. During this process, the assets are frozen, so they are not accessible to the heirs. Having a foreign will for foreign assets means the will can be actioned at the same time as the winding up of the estate.

Considering these facts, it is obviously important to have a Seychelles-based will to facilitate the transfer of your assets. PKF Capital has managed to organize a great discount through one of the most highly regarded notary publics in the Seychelles at a cost of USD 500 to write and USD 50 a year for safeguarding. We recommend going this route for all clients with assets held in the Seychelles, although it may only be worthwhile where assets are worth more than USD 10,000.

A superior option is to house foreign assets in a structure that eliminates all these issues and is also very efficient for tax and estate planning. Again, this can be costly, and we advise clients to consider this cost when they have offshore assets over USD 200,000.

We at PKF offer a unique solution at a discounted price to OrbVest clients. If you'd like to discuss this in more detail, please feel free to contact me.

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