

Creating substance for family offices in The Bahamas



Family offices are becoming integral to the cohesive and coherent management of far-flung business interests in tandem with domestic and personal affairs. Linda Beidler-D'Aguilar examines the opportunities afforded by the establishment of such offices and the advantages of doing so in The Bahamas

What is a family office?

A family office is a vehicle that can provide a broad range of services to the family or families it represents, from domestic administrative matters (e.g. travel arrangements, staffing and household upkeep) to sophisticated support of long-range business, tax and estate planning, including the supervision of trusts and oversight of investments that may be outside the family's core operating businesses.

Why establish a family office?

- Formation of a single, comprehensive structure allows sophisticated and structured oversight of a family's overarching objectives and opportunities.
- Creation of centralised control and responsibility for integral functions around the family's various interests and obligations provides stability and the opportunity to provide generational and succession planning.
- Consolidation of oversight enhances the ability to provide specific direction as to services sought from external providers and to monitor the services received.

In sum, it permits a dedicated focus on the whole picture of a family's wealth rather than peering at bits and pieces of the

puzzle, each element in isolation from the other.

Tools for family offices established in The Bahamas

Private trust companies

A private trust company (PTC) is established for the express purpose of acting as the trustee of a specific trust or a family's group of trusts, generally in the form of a limited liability company. Its board of directors can include family members as well as trusted advisors and independent third parties. Consequently, the family may retain supervisory authority over strategic management of assets without prejudicing the validity of the underlying trust. If established with unlimited duration, subsequent generations can be included in the governance structure over time.

Regulation and oversight of PTCs is vested in the Central Bank of The Bahamas. While there are no pre-approval or licensing restrictions applicable to PTCs prior to incorporation, once incorporated PTCs are required to appoint a registered representative whose duty is to ensure that the PTC remains compliant with applicable industry regulation, including anti-money laundering legislation.

Executive entities

The Bahamas Executive Entity (BEE) is a one-of-a-kind statutory construct: a legal entity designed

to fill governance roles such as those arising in family office structures. However, a BEE is not subject to oversight by a specific regulatory body.

A BEE's only role is to fulfil and perform 'executive functions', namely those which are administrative, supervisory, fiduciary or office-holding in nature. This being the case, it has neither shareholders nor beneficiaries because it may hold assets solely for the purpose of exercising the executive functions outlined. For instance, a BEE can hold the shares of a PTC; if acting as a trustee it may hold trust assets; it may also hold shares that entitle it to exercise managerial functions, such as the management shares in an investment fund.

Asset management

To facilitate professional oversight of a family's assets and to enhance transparency (both within and without the family), it is possible to establish and license an independent asset management entity in The Bahamas. Parameters for capitalisation and professional indemnification are set by law; physical facilities within the jurisdiction are required and, where necessary, can be satisfied through appointment of an approved representative. Reporting requirements (financial and otherwise) are also designated along with on- and off-site supervisory requirements.

Governance requirements for family offices and associated structures

The statutory and regulatory regime in The Bahamas – as well

as its case law and common-law antecedents – encourages the establishment and maintenance of effective governance systems within and around PTCs, foundations, investment condominiums and BEEs. The ready availability of financial institutions, qualified professionals and skilled staff on the ground, as well as the opportunity for family members and their trusted advisors to establish residence in The Bahamas, all provide a framework around which practical and effective management systems may be erected.

Family offices and substance in The Bahamas

Controlled foreign company and permanent establishment rules necessitate that physical presence and transparency requirements be respected; active management of immigration and residence requirements is also essential. The Bahamas offers a full suite of tools for use in the establishment of an efficient, discreet and compliant structure, as well as the infrastructure, workforce and lifestyle opportunities that make the jurisdiction attractive for the establishment of family offices for families from around the world.



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