

# PRIVATE CLIENT

Celebrating Partnerships



## OVERVIEW

The private client practice in India has gained traction in recent times and is fast emerging as a significant niche practice area for any full-service law firm. Several factors have contributed to this: a key one being globalisation, which has exposed Indian businesses to global best practices; the emergence of a new highly skilled and widely travelled generation; and gradual changes in the Indian social structure with family members settling down in different countries.

The advent of globalisation has resulted in Indian businesses undergoing a paradigm shift – a shift from an insular promoter-driven model to one that is attuned to best practices across the world while at the same time retaining aspects that are uniquely Indian.

This shift from traditional business practices coupled with the younger, mobile generation that is driving the growth has resulted in Indian businesses and high-net-worth individuals (HNIs), not only in the metros but also in Tier II and Tier III cities, overcoming cultural taboos and recognising the need for succession planning and wealth management. The focus is now not only on wealth creation but also on preservation and growth, keeping in mind the interests of future generations.

With India being one of the fastest-growing economies in the world, the importance of estate succession planning and wealth management cannot be overemphasised. Effective planning is essential not only for the growth of the business and for ensuring effective leadership over generations, but also to address cross-border issues that could arise from wealth and assets being subject to multiple legal systems.

Though the collective net worth of Indian HNIs has steadily increased with time, it is possible that the laws of various countries have not caught up, with each country purely focussing on casting the tax net

## OUR EXPERIENCE & EXPERTISE

wider than the other. Proper planning in this regard would take into account any imminent changes in legislation, develop structures that are tax efficient, and also adequately protect and enhance the value of newer forms of assets such as brand value, patents, and other intellectual property. Also, it would go a long way in reducing any disputes between family members; family wealth can then be used for the growth of the business rather than expended over long-winded disputes across jurisdictions.

As our clients are increasingly looking for holistic advice that can comprehensively address succession issues closely intertwined with estate and tax planning and wealth preservation, Khaitan Legal Associates' private client practice focuses on all aspects of estate, succession, and tax planning including wills, probate, trusts (lifetime as well as testamentary), foundation and gifts, balance sheet and corporate restructuring to meet the families intended objectives.

Our private client team provides a host of services, including personal wealth and succession planning, wills and domicile opinions, as well as advice on personal tax structures, and advises high-net-worth individuals, business families, trustees, domestic and international banks, and various funds on their legal advisory and structuring requirements.

Our team has extensive experience in dealing with complicated issues of residency, domicile, cross-border bequeathals, and other multi-jurisdictional issues that arise as a result of the migration of individuals and families to and from India. We closely work with international law firms, large accountancy practices, and other practitioners while advising clients of Indian origin who are residents outside India on matters relating to matrimony, property law, and the structuring of offshore investments.

Our clients include HNIs, non-resident Indian families, multinational corporations, Indian resident families that have members residing across the globe, banks, law firms in other countries, and other institutions that represent such persons. With in-depth knowledge of the complex and community-specific personal laws in India relating to succession and matrimony, property laws, exchange control laws and regulations, taxation laws, laws relating to domicile and residency in India, and conflict of laws principles and attention to detail, we ensure that our clients receive optimum solutions to any issue, whether contentious or non-contentious, about matters relating to family and inheritance.

# PERSONAL WEALTH & SUCCESSION PLANNING

The private client practice often involves multi-disciplinary issues across jurisdictions; issues can range from succession laws, residency, private international law principles, tax laws, exchange control regulations and restructuring of holdings of family business.

The laws in these areas can be complex and dependent on several factors, such as the community of individuals (Indian succession laws differ for Muslims, Hindus, Christians, Parsis, and others), physical presence in India (for exchange control and / or tax purposes), and the nature and location of assets (exchange control regulations restrict the transfer of certain kinds of property and regulate property transfers between residents and non-residents).

Since this is a practice area where a 'one-size-fits-all' approach cannot be adopted, we spend ample time with our clients to first understand their requirements and sensitivity concerns and then tailor our solution, accordingly, taking into account implications under a broad spectrum of laws and regulations.

Given our full-service capabilities, our services in this area extend from conceptualising, providing advice, to implementing structures for asset protection and / or succession that are efficient, simple, compliant with applicable laws, and also meet the client's objectives. Our past assignments include advising on the Indian tax obligations of beneficiaries of global trusts, offshore movable assets of an Indian-domiciled individual, and gifts of immovable property situated in India to non-residents, restructuring of company holdings and family arrangements.

# DOMICILE OPINIONS

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Over the years, several Indian nationals have relocated across various countries in order to work or take up residence, and subsequently, the need for ascertaining one's domicile has become increasingly important.

As Indian law mainly shadows the principles of English common law, one's domicile is usually ascertained by the place of their birth. This, however, may subsequently be varied by a wilful act of the individual.

Our team at Khaitan Legal Associates examines the relevant facts on a case-to-case basis and, whilst applying applicable Indian laws, determines whether an individual is considered domiciled in India either by means of his/her origin or by his/her choice.

# WILLS

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It is imperative for every person to make a will, whether or not they consider themselves to hold a considerable value of possessions or money.

Our team advises clients on planning the structure and content of their wills as well as drafting their wills, whilst careful consideration is given to the client's needs at all times.



**Sakate Khaitan**  
Senior Partner  
[LinkedIn](#) | [Contact](#)

Sakate is the managing partner of the firm with over 30 years of experience. A rare combination of lawyer and MBA.



**Abbas Jaorawala**  
Senior Director & Head-Direct Tax  
[LinkedIn](#) | [Contact](#)

Abbas heads the direct tax practice in the firm. He is a chartered accountant with experience of over twelve years in the field of direct taxation.



**Sanjana Dasgupta**  
Senior Associate  
[LinkedIn](#) | [Contact](#)

Sanjana is a Senior Associate based in the Mumbai office of Khaitan Legal Associates and is a part of the corporate team of the firm.

OUR PRIVATE  
CLIENT TEAM

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[www.khaitanlegal.com](http://www.khaitanlegal.com)



LinkedIn

## **MUMBAI**

122, 12th Floor, Maker Chamber IV,  
Backbay Reclamation, Nariman Point – 400021  
T: +91 (0) 22 6140 0000  
[mumbai@khaitanlegal.com](mailto:mumbai@khaitanlegal.com)

## **NEW DELHI**

5A Ring Road, Lajpat Nagar 4,  
Opp. Moolchand Metro, Delhi – 110 024  
T: +91 (0) 11 3511 7041  
[delhi@khaitanlegal.com](mailto:delhi@khaitanlegal.com)

## **LONDON**

83 Baker Street, London, W1U 6AG,  
T: +44 (0) 207 034 1430  
[london@khaitanlegal.com](mailto:london@khaitanlegal.com)

## **BENGALURU**

2nd Floor, IndiQube TownHub,  
100 Feet Road, Indiranagar,  
Bengaluru – 560038

