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Trust Quarterly Review

Editorial - Stormy weather

The FATCA storm cloud is set to burst over a rapidly changing estate-planning landscape.

The actual origin of the 'Chinese' expression 'May you live in interesting times' is likely to remain in dispute forever. However, listening to the language of the G20 or OECD aimed at the international finance centres, no one could dispute that we do in fact live in a fascinating era.

The sheer scale of current international initiatives aimed at transparency, information exchange and consequential revenue generation (by ending tax evasion and making even legitimate avoidance that much more difficult) is as obvious as it is staggering. Never before have informed, proactive and prepared professionals in the fiduciary industry been so important to their clients', as well as their own, survival.

As such, this issue of Trust Quarterly Review (TQR) includes a timely update, courtesy of Eric J Snyder and Benjamin JA Sauter, on the Foreign Account Tax Compliance Act (FATCA) and the US Department of Justice's initiatives targeted (initially) at Switzerland (page 33). Such initiatives have already yielded much information that is being deployed elsewhere. It seems to be no coincidence that non-prosecution agreements negotiated in Switzerland carry over to subsidiaries and affiliates outside of Switzerland. The storm clouds have not so much just gathered as already started to burst. For now, at least, it can only get wetter.

Disclosure of information to beneficiaries of a trust remains a thorny and often litigated issue. Mark Hubbard's article (page 3) reviews recent cases from a number of jurisdictions in respect of holders of information other than simply the trustees themselves, including protectors.

Also in this issue, Marilyn Piccini Roy provides a useful analysis of the remedy of rectification under the civil law of Quebec (page 8), while Alon Kaplan, Lyat Eyal and Shai Dover discuss the tax treatment of trusts under Israeli law: an area of the law that has seen dramatic change within the past ten years (page 18).

The fact that anyone might draft on their iPhone something as important in life – and death – as a will may well be amazing but, given that it does happen, Rob Cummings's article, 'Wills on iPhones and DVDs', is a thought-provoking primer on this brave new world of technology (page 26).

Pointing practitioners in the direction of helpful resources is an important part of TQR's remit and Edward Buckland's book review of the tenth edition of A Practitioner's Guide to Trusts does precisely that (page 43).

The editorial board hopes that you find these articles as useful to you as they were interesting for us to read.

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