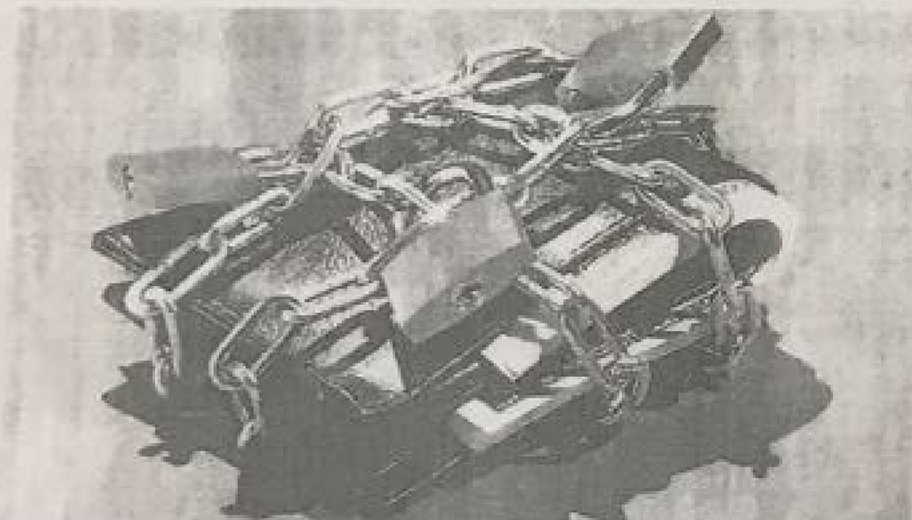
High on Worth, Low on Spend

Spooked by inheritance tax fears, Indian high net worth individuals are opting for family trusts and laying down alcohol rules and holiday policies for family members



Sachin Dave

Case 1: For a Delhi-based socialite, it was odd that her father — patriarch at the helm of a multimillion dollar empire — had called all family members for a meeting on a Monday morning. Her father announced formation of a new family trust and a set of rules for all members.

When she went through them, it did not take her long to realise that one of the rules was aimed at her. It stipulated that she would be allowed an allowance of ₹15 lakh every month if she followed "drugs and alcohol" regulations laid down in the family trust.

Case 2: In Mumbai, an actor whose father boasts of about $500-million net worth, was shocked when he was handed a copy of the "family constitution" instead of ₹10 crore he needed to make a film. The actor, whose three Hindi films had tanked on the box office, was told he could make four more films with the family money, but at a cost. As per the new family trust rules, the actor was required to pay an interest of about 10% on the money and share 50% of the profits with the family.

That's the new avatar of the Indian richie rich. They are laying down specific rules for the beneficiaries of the wealth — from annual holiday guidelines to drug and alcohol rules to monthly pocket money limits and even how extramarital affairs will be handled. Why so? Many high net worth individuals (HNIs) fear that the government may reintroduce estate duty, or inheritance tax, and therefore they are rushing to insulate their assets by transferring them to private family trusts. Incidentally, such taxes existed till 1986.

Sandeep Nerlekar, founder, Terentia Consultants, an estate planning firm, said: "We have seen a spurt in the number of HNIs who want to opt for family trusts as many of them fear that the government may introduce an inheritance tax. However, what is new in these family trusts is the constitution and rules that are being laid by the patriarchs or the promoters on how the beneficiaries must behave morally."

Currently, there is no tax in India if one were to bequeath assets. But if such a taxed is introduced, family trusts would be out of the taxation gamut since no ownership is transferred but only shareholding of the trust changes. That is why in the past two months, there has been a rise in the number of HNIs wanting to form a trust.

Ketan Dalal of Katalyst Advisors, a tax boutique firm, said: "The thinking about trusts is driven by a variety of reasons, including creating of a family constitution, succession planning and planning for potential estate duty, among others. The idea of business continuity and avoiding conflicts in succession has also been a trigger for several promoters thinking about forming trusts."

> **Family trusts will keep HNIs' assets out of the tax net but what's new in these trusts is the constitution and rules being laid down by patriarchs or promoters on how beneficiaries must behave morally**

Although most of these trusts are created by those with net worth of at least ₹100 crore, even others with slightly lower net worth have taken a liking to the idea, say industry experts. "Even middle-class families with assets worth ₹10-25 crore are opting for family trusts," said Vishwas Pathak, director of Universal Trustees Group, which specialises in managing family trusts and corporate trusts businesses.

According to Nerlekar of Terentia Consultants, families not only want to create the trusts but also want to define policies like do's and don'ts and family budget polices.

For instance, a Pune-based family, which is into real estate and could have total assets of anywhere around ₹1,500 crore, formed a trust not only for succession planning, but also because there were fights between three sons of the patriarch on how much one could spend on holidays.

"One son had chartered a private jet to Europe, while another had booked a private island in Thailand. The third son now wants to take about 100 of his friends to Maldives," said a person in the know. The patriarch is on the verge of forming rules where annual holiday spending limits — to be borne by the trust — would be set.

In many cases, the promoters are creating family trusts as a way around the bankruptcy code or strict NPA guidelines by the government. "To insulate the assets against new legislations like the bankruptcy code and recent guidelines/ordinance on NPAs, a lot of businessmen/promoters and HNIs are planning to go for family trusts," said Pathak of Universal Trustees Group.

Some of the family trusts are also being formed outside India just to circumvent Indian taxation regulations. Jersey of Channel Islands is emerging as a favourite destination for many businessmen who want to take part of their family trust outside India, say industry trackers.

In the past couple of months, many Indian families have sent at least one of the family members outside India and created a family trust registered in tax friendly destinations.

And for the record, the New Delhi socialite is sober for six months now and the struggling actor has shelved his plans to make films and is looking to invest in a startup.