LOMBARD INTERNATIONAL ASSURANCE

Wealth planning with life insurance in Latin America

Life insurance through offshore structures held by Latin American investors

Unit-linked life insurance is an established and internationally recognised tool for wealth preservation. It can be tailored to suit the unique needs of individuals, their families and institutions, with the potential to enhance financial planning.

Lombard International Assurance focuses on designing wealth structuring solutions for wealthy families using unit-linked life insurance. Life insurance is a proven instrument, internationally recognised, that is firmly embedded in the legal systems of most countries around the world, including Latin America. It is increasingly seen as a strong complement to other wealth planning tools such as trusts, foundations, partnerships and corporate structures.

This summary highlights the principal benefits of Lombard International Assurance life policies when subscribed by offshore holding structures ultimately held by Latin American investors located in jurisdictions such as, for example, Brazil.

ADVANTAGES

Asset and investor protection

- Assets linked to life policies are held by independent custodian banks approved by the Luxembourg insurance regulator, the Commissariat aux Assurances (CAA).
- Maximum security is provided through a state-controlled policyholder protection regime (the so called Luxembourg "Triangle of Security"). Assets linked to life policies are segregated from those of Lombard International Assurance and are held off the balance sheet of the custodian banks. Should a custodian bank or Lombard International Assurance go into liquidation, policyholders would have absolute preferential rights over those assets linked to life policies. Thus, assets are reserved to pay the policyholders or their beneficiaries.

Estate and succession planning

- Life insurance can be used to complement existing planning structures such as trusts and foundations. Upon the death of the life/lives assured, life policy proceeds are immediately available to the beneficiaries, as defined by the policyholder, without the lengthy probate proceedings that apply to inheritance in some jurisdictions (for instance, Brazil).
- Beneficiaries are appointed by the policyholder, who keeps the right to add, change or revoke these at any time, except when appointed irrevocably. Beneficiaries can be individuals, companies, fiduciary structures, etc.
- Payment out of a life policy to the beneficiaries upon the death of the life/lives assured includes an additional death cover which is payable together with the value of the assets linked to the policy.

International recognition and portability

- Life insurance benefits from statutory and public acceptance in most countries of Latin America with clear guidelines as to the regulatory and tax rules around it. This allows life insurance solutions to be easily portable from one jurisdiction to another by making just a few adjustments to make it compliant in the new jurisdiction where the client wishes to move.
- Additionally, this international recognition allows families with members spread across the globe to plan effective and tax-efficient inter-generational transfers of wealth.

Flexibility

- Each solution is designed to meet the specific needs of each client. Existing relationships of clients are maintained during the life of the policy: depositary banks, investment managers, lawyers, tax advisers, fiduciary agents, etc.
- Flexibility with respect to the underlying assets of the policies.
- Admissible assets and diversification requirements defined by the Luxembourg insurance rules: for premiums of € 1 million or more, no diversification rules and barely any assets are includable under a life policy (hedge funds, private equity, real estate, unquoted operational companies, etc.).

Taxation

- The implementation of anti-abuse and international tax transparency rules has undermined the tax efficiency of many fiduciary and corporate offshore structures in many Latin American jurisdictions (e.g. Mexico, Peru or Colombia). The validity and use of these fiduciary and corporate solutions is however unquestionable for addressing non tax related issues and many clients choose to keep them. Apart from providing additional advantages (as described above), life insurance might also provide the necessary substance which is increasingly required for the global structuring solution to benefit from tax deferral and other tax-related advantages.
- Other jurisdictions (such as Brazil) are expected to follow this trend in the near future and issue tax rules which will subject many offshore fiduciary and corporate structures to tax transparency. Past experience in the region show that transparency rules do not apply to life insurance when properly designed. Life insurance is therefore a tax compliant and robust solution which has proven to be a long term solution which lasts over tax changes.
- Insurance indemnities paid to Latin American resident beneficiaries upon the death of the life/lives assured may be tax-exempt in many jurisdictions (e.g. Brazil or Peru).

Case study

Mr. De Sousa

Mr. De Sousa is a successful entrepreneur who made his fortune in Brazil exporting and selling coffee beans to US wholesalers. In his early 60s, he sold his company when he realized that his only son (26 years old) would not take over the management after having finished his postgraduate studies in economics in Switzerland. Indeed, the son decided to remain in Switzerland some years to undertake a career in the local banking industry.

Following advice from his financial and tax advisors, Mr. De Sousa decided to set up a Personal Investment Company (PIC). All the proceeds obtained from the sale of his company were contributed to the PIC and started to be managed by professional investment managers.

Objectives

In a context of introduction of new tax transparency rules by Latin American governments, the directors of the PIC decide to seek for new planning solutions in order to ensure a tax-efficient and robust solution aiming to preserve the wealth held under the PIC in the long term. Ultimately, the objective of the directors is to pass on the wealth generated under the PIC to the son of Mr. De Sousa.

The directors wish as well to maintain all the existing relationships with the depositary bank, the investments managers of the underlying financial assets and the corresponding legal advisors.

Solution

The client's advisors and Lombard International Assurance work closely to design a tailor-made solution to be subscribed by the PIC that would be tax compliant in the long term.

Result

The PIC will be the policyholder of a life insurance policy in which Mr. De Sousa will be the life assured and his son, the beneficiary upon his death. During the life of the policy, any gains accrued under the policy will be cumulated and benefit from tax deferral despite the introduction of tax transparency rules in the country of residence of the shareholder of the subscribing PIC.

Therefore, gains realized under the policy will not be directly taxed in the country of residence of the shareholder of the PIC.

In addition, though the subscription of a life insurance policy, the directors of the PIC can ensure that the depositary bank, the investment managers and the legal advisors maintain their respective functions.

In the event of death of the life assured, all the proceeds of the policy will be passed on to the son of Mr. De Sousa in an efficient manner and without need to undergo lengthy and costly probate proceedings as the payment would be done by the insurer carrier upon death of the life assured.

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