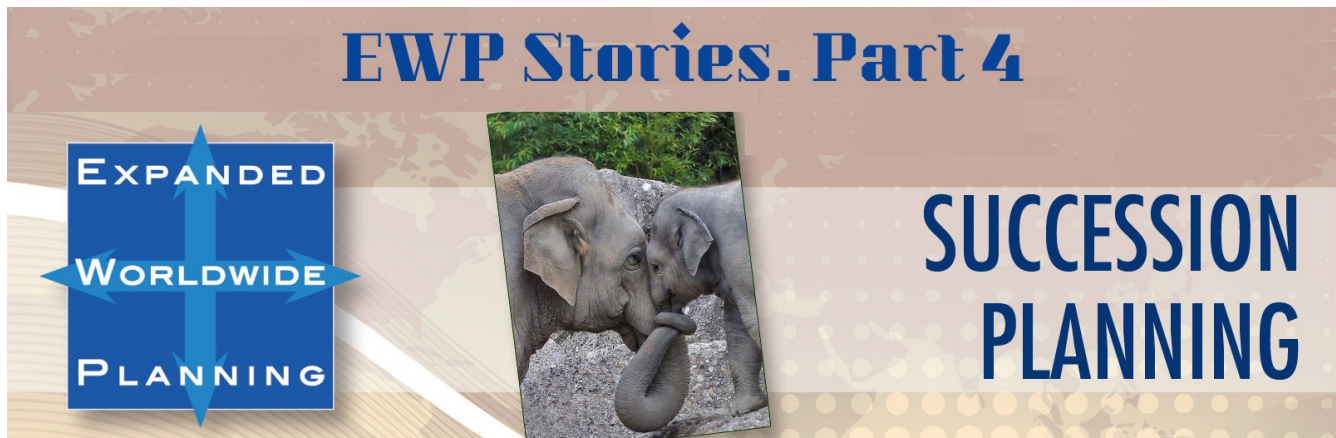


## EWP Stories-4



### **Expanded Worldwide Planning International Tax Planning Stories Part 4: Succession Planning**

Many countries, primarily in civil-law jurisdictions, require forced distribution of assets at death according to strict laws and regulations. This usually takes the form of percentage shares of assets that will be distributed to spouses, children, and other close relations of the deceased. A [\*PPLI policy\*](#) purchased outside the home country of the owner or policyholder is a method to mitigate these forced heirship rules.

The PPLI policy is a contract between the owner of the policy and the insurance company to pay the beneficiary of the policy the death benefit upon the death of the insured under the contract. A typical beneficiary provision of a life insurance policy states: “unless an alternate payment plan, acceptable to us, is chosen, the proceeds payable at the insured’s death will be paid in a lump sum to the primary Beneficiary. If the primary Beneficiary dies before the insured, the proceeds will be paid to the contingent Beneficiary. If no Beneficiary survives the insured, the proceeds will be paid to your estate.”

Since a typical PPLI policy is executed outside the home country of the policy owner, the forced heirship laws do not apply, as the policy will be governed by the laws where the insurance company is domiciled.

This element of [\*EWP\*](#), (Expanded Worldwide Planning), provides a wealth holder an excellent method to enact an estate plan that conforms to his/her own wishes, and not be dictated by the forced heirship rules of his/her home country. To be successful this needs to be well-coordinated with all the aspects of a properly structured PPLI policy, as well as all the other elements of a wealth owner’s financial and legal planning.

Here is a list of countries where forced heirship laws exist today in a variety of forms:

- France
- Switzerland
- Germany
- Turkey
- Mexico
- Brazil
- Argentina
- Italy
- Spain
- Russia
- Japan
- Saudi Arabia
- Yemen
- Jordan
- Iran

### **Part 1**

Andre Simmons toyed with staying at the Hotel Cala di Volpe on Sardinia's Costa Smeralda. He could easily afford the \$41,000 nightly rate for the penthouse suite, but preferred staying on his superyacht that was anchored in Porto Vecchio near the village of Porto Cervo.

Andre liked people, so was feeling a little lonely, as he had given his crew the morning off after their voyage from Miami, Florida. They had had a rough crossing on the Atlantic, dangerously riding 30 foot swells through a nasty storm that had unexpectedly come upon them. By contrast the water in Porto Vecchio was like glass with barely a ripple on the mirror-like surface.

The weather was perfect. He decided to go for a swim before his usual breakfast of coffee, bagel, and cream cheese. The bagel brought to mind New York City and his attorney. Delaying his breakfast for a swim did not bother him, but delaying action on his attorney's advice was causing him some worry. He had reached a state of mental paralysis on what to do about passing his billions to his wife and children. Maybe he could think more clearly after a long swim.

Andre put on his bathing suit, and went through the spa center on the lower deck which had direct access to the water. The first plunge brought an accelerating tingle of pleasure. He was powering through the water, aided by just his own

arms and legs. In these first moments in the water, he felt like a splendid fish, and not the owner of a magnificent, 150 ft., superyacht that had all the amenities money could buy.

The salt water was buoyant like only the Mediterranean could be. Andre was a strong swimmer and headed out of the bay. Soon his yacht had shrunk to the size of a much more modest craft.

At first it seemed like an annoying muscle pain in his chest, as he vigorously swam out to sea. The pain persisted. His youthful athletic training told him just to ignore it. He probably needed to do more stretches. At 48 his body was beginning to show its age.

The burning pain now became intense. He saw nobody in sight. It was 6:30am. No other swimmers, no other boats, nobody to hear a cry that he now could not make.

In view of this most exclusive enclave of wealth, this gorgeous seascape took him. He helplessly sank. Water poured into his lungs. He continued to sink. This beautiful bay had claimed a billionaire. He could do nothing but yield to nature's will.

If his dead body is not found soon, the sharks will find it. His estate will suffer the same fate, but his \$10billionU.S. of assets will be found, and, since he failed to leave a will, it will meet a similar fate: not an orderly deposition of this vast worldwide financial empire, but a hacking and a continued hacking until those contesting this fortune wished it would stop. It will not stop until the last legal contestant makes their last legal challenge in five to ten years hence.

## **A Brief History of Forced Heirship**

The notion of forced heirship originated with Germanic tribe tradition, which sought to protect the family's legacy and tradition. The deceased's personal property was divided into thirds--the widow's part, the children's part, and a third part, which consisted of clothes, weapons, and farm animals.

Forced heirship is mostly prevalent amongst civil law jurisdictions and in Muslim countries, but also occurs in other major countries such as the U.S.A. (in Louisiana) and Japan.

There is a substantial difference between civil law jurisdictions and common law jurisdictions. **Civil law** is rooted in Roman law, and has the functions of the legal system

codified and compiled into a collection readily available for citizens to reference. This legal structure requires the judge to rely on the black letter meaning of the law and disregards individual interpretation.

**Common law**, however, has its rules and regulations administered by judges. This type of individual judicial administration and decision-making allows enforcement of the law to vary on a case-by-case basis rather than on the black letter meaning of the law.

Civil law jurisdiction laws are heavily based on the German Code (BGB) and the Napoleonic Code. Today, the civil law legal system has become the most widespread of all the legal systems globally. Continental Europe, as well as many former European colonies, has adopted and evolved their laws to abide by the civil law structure. This has led to a continued reliance on the notion of forced heirship. The tradition of forced heirship has historically provided a means for heirs to be guaranteed a share in a decedent's estate

### **Civil Law vs. Common Law Examples of Conflict**

International families can eliminate the vagaries of court decisions which hinge on details of the law like *inter vivos* transfers versus testamentary transfers by using a properly structured PPLI policy. This policy will secure their own estate planning wishes using a legally binding contract between the wealth owner and an insurance company with no need of court decisions in any jurisdiction.

### **United States and Spain**

In general the domiciliary jurisdiction at the time of a testator's death controls movable property. But in this case (*Wyatt v. Fulrath*, 211 N.E.2d 637, N.Y. 1965) the New York court ruled that the expressed agreement by the couple that New York law was to apply to these assets that were moved to New York. The ruling was sufficient to allow New York jurisdiction and law to override Spanish law.

The law of Spain would have prevented either spouse from agreeing that community property goes entirely to the survivor on the death of either, which was their expressed agreement in New York. Under Spanish law, the surviving spouse would only receive half of the community property deposited in the joint New York bank accounts.

### **United States and France**

In a 2009 New York case (*Re Meyer* 876 NYS 2d 7, App Div 1st Dept 2009) the court made a distinction between a lifetime, *inter vivos*, transfer and a transfer at death by will or trust. At issue were gifts of property made during lifetime by a person who was allegedly a French domiciliary at the time she made the gifts.

The court ruled that the gifts were not subject to forced heirship claims because: "the validity and effect of these transfers, as well as the capacity to affect them, are governed by the law of the state where the property was situated at the time of the transfer."

The Court went on to say that: "[w]e perceive no valid policy distinction that would

allow a nonresident testator to avoid French heirship claims by involving New York law with respect to assets physically situated in New York...but not with regard to previous inter vivos transfers of assets physically situated [in New York].”

## Part 2

Charlotte Simmons could not say exactly why she found herself standing before Theodore Gericault’s painting, *The Raft of the Medusa*, at the Louvre Museum in Paris. For Charlotte museums were akin to a religious experience: a deeply internal religion of her own devising, not a religion with a recognizable label.

The tragic scene of shipwreck depicted so dramatically by Gericault had called out to her that morning, as she left her apartment near the Louvre. She was one of the first to arrive at the museum, and had the painting to herself.

This very large painting (16 ft. by 23 ft.) depicts the moment of rescue for a hurriedly constructed raft that originally held at least 147 people that was set adrift from a French naval ship off the coast of West Africa in 1816. All but 15 died before their rescue, and those who managed to survive endured starvation and dehydration and practiced cannibalism.

Her cell phone buzzed in her purse, and she sought refuge on the large, black bench in front of the painting, taking the phone against her ear, and leaning over to hide it, but the guard spotted her phone, and began moving stridently toward her.

“Bonjour,” she said in her unrecognizable, cultured accent, the product of living in three continents.

“Is this Mrs. Simmons,” said a voice devoid of any emotional signposts.

“Yes, it is.”

“Madame” began the guard. She heard her speaking English, and continued, “No mobile phones, Madame, you must leave the gallery now.”

“I have terrible news for you. Your husband is dead.”

The guard then became quite agitated, “Madame, I must insist.”

Charlotte looked up imploringly to the short, bespectacled, young woman that now stood directly above her, tears ruining the makeup on her exquisitely featured face. She barely heard the rest of the monotoned, formal rendition of

finding Andre's body floating a few hundred meters from his superyacht. The voice concluded with an obligatory condolence, and a phone number for the police in Porto Cervo.

The guard now had placed her hands on her hips. Charlotte lifted her head to see her exasperated, reddening face, now inches from hers, as she tried to make herself understood, thinking Charlotte did not understand her heavily accented English.

She became aware that others on the bench had moved away, her anguished face pushing them away, clearing a space for her, a space that held an emotion that these strangers could feel without knowing the details.

"Madame, my husband has drowned; he is dead." The guard's arms fell to her sides. She understood, and as if to make her meaning clearer, pointed awkwardly at *The Raft of the Medusa*. She was to learn later how fully she understood her grief. She meekly walked out of the room with her head bowed as if in prayer.

Charlotte returned to *The Raft of the Medusa*. *The ocean took my Andre. This vast expanse of liquid that we mostly float above. He has sunk below to a realm no longer within reach of my love.* The finality of death penetrates slowly, especially if there is no body to bear witness to a piercing grief.

She continued to stare at the painting, attempting to extract a meaning that would help her. She was now a survivor like those on the raft who had spent thirteen days at sea. The very number of days she had been absent from Andre, who is now absent from her forever.

## **Why a PPLI Structure Is Best**

The laws governing these PPLI contracts are written specifically to accommodate international wealthy families. These laws enhance not only succession planning, but provide excellent asset protection, privacy, and tax efficiency.

A PPLI policy is not a uniquely civil-or common-law creation. Its treatment in law is more uniform than planning solely with entities like trust, foundations, and LLCs. The unique design of a PPLI policy can greatly assist in a move between civil-and common-law jurisdictions.

This can be done without the requirement of a will or trust. Upon death of the insured person(s), the value of the PPLI policy plus any death benefit is paid directly to the beneficiaries listed in the policy, and separate from probate.

If a PPLI policy is held by an entity, such as a trust, that is compliant in the beneficiary's country of residence, tax deferral and investment flexibility can still be preserved, even if the trust is disregarded as a foreign entity.

Gift and estate planning for life policies frequently involves establishment of a specially structured insurance trust for the benefit of a spouse and/or children and descendants. The trust acquires the policy with the premiums being contributed to the trust by the settlor/insured. In this manner, the death benefit would be paid to the trust free of estate taxes rather than going outright to the surviving family members after the payment of estate taxes.

PPLI policies also could invest in [PFICs](#) without creating adverse tax consequences. From a US perspective, US persons should generally be aware that most non-US collective investment vehicles will be classified as PFICs for US purposes and subject to adverse tax charges upon generating income and gains.

### **Part 3**

Edward Lawson had a mathematical mind. Looking out his New York Park Avenue office window onto the neatly arranged winter bedding plants, he spotted the red and green variegated ornamental cabbage peaking through the snow; seen from his tenth story window, they reminded him of little zeros.

He was taking a secret pleasure in the number and timing of the phone calls he was receiving of people soliciting a share of Andre Simmons estate. It was averaging one call every fifteen minutes. As Andre's attorney for many years, Edward had assumed the role of executor of his estate, although it would probably take years to find out who the final executor might be. He had the relaxed air of someone who knew his difficult task was not permanent, and does not bear full responsibility for the outcome.

His job was to gather together the loose threads of Andre's substantial financial empire. He thankfully did not have to be accountable to the many beneficiaries, many of whom would be discredited and found to have false claims against the estate by whatever court would have the ultimate authority for the case.

He knew a call was due, and here it came. "Edward Lawson."

"Edward, I have Herve Laurent, a french attorney for you. Shall I put him through?"

"OK, Nancy."

"Mr. Lawson, I represent Bernadette Simmons, Andre Simmons' first wife. I wish

to make my client's situation known to you. She says she has proof that Mr. Simmons was married to his second wife in New York before his French divorce with my client was finalized, therefore, under French succession law, she has rights to a portion of his estate, as well as her two children. They will be represented each by their own legal counsels."

In the two weeks, he had been handling this case, startling developments were routine. "Thank you Mr. Laurent. I will put you into the case. No guarantees that I can keep you informed, so please check back as things progress."

Turning to his computer, he noted this in the file, and reflected that if France was to adjudicate the estate, and nullify the second marriage to Charlotte, this indeed would be a new development, but it was much too early to speculate.

It was time to summarize the entire situation, in case the managing partner asked him about the case. This is how it stood presently just a month after Andre's death:

- Andre has over a dozen business entities in multiple countries that must be sorted out. In these countries there are other partners and directors who will have conflicting claims concerning the ownership and continued operation of these companies.
- Even though Andre Simmons is a U.S. citizen and taxpayer, New Zealand and France could claim taxes from him because he had residences there, and spent considerable time in these countries. He had extensive economic ties to all three countries with a large sheep farm in New Zealand, vineyards in France, and real estate in New York City. All three countries will make arguments that his center of economic activity or permanent place of abode occurred in their country, although it is possible to be declared a tax resident in more than one country.
- The U.S., France, and New Zealand have double taxation treaties with each other, and tie breaker provisions in case of conflict, but it will be far from simple to come to a decision.
- As to future potential beneficiaries through blood ties, if past cases are any indication, they will be appearing daily. The various courts involved will be asking all these unsubstantiated beneficiaries to take DNA tests to prove a biological connection to Andre.



- The allegation concerning the timing of his divorce to the first wife, and remarriage to Charlotte must be thoroughly investigated.

“Zero times any number equals zero,” Edward said aloud to himself. Zero was the image that came to mind at his conclusion of the summary. *What a disgraceful waste of legal brain power and money. This case has the potential of another Bleak House.* (The novel by Charles Dickens that depicted an epic estate contest that ended in all the estate being consumed by legal fees.) *Of course, all this could have been avoided with proper planning, but now each new complexity would add months if not years to the process, and drain the estate value substantially.*

Edward thought drowning the estate sounded better, but remembered Andre’s death, and forced himself back to his computer screen.

## Unwelcomed Complexities by Country

The laws of succession and inheritance vary widely by country. By reviewing the laws of France, China, Russia, and Saudi Arabia, we give you a sampling of the complications faced by wealthy international families throughout the world. Image a family that might have family members and assets in several of these countries, and the daunting task of settling their estate. **If a properly structured PPLI policy is used, many of these complications can be avoided.**

### France

Before the Napoleonic Code, France did not have a single set of [laws](#); law consisted mainly of local customs, which had sometimes been officially compiled in "customals" ([coutumes](#)), notably the [Custom of Paris](#). There were also exemptions, [privileges](#), and special charters granted by the kings or other feudal lords. During the Revolution, the last vestiges of [feudalism](#) were abolished.

France’s Napoleonic code dictates how your assets must be distributed on your death. The key points are:

- For French residents, succession law applies to worldwide assets (excluding real estate outside France).
- For non-residents, French real estate is subject to the succession law rules.
- Assets do not automatically pass in accordance with your will.
- Children are protected heirs, inheriting up to 75% of your estate.
- Spouses are not automatically protected.
- You can use the EU succession regulations, termed Brussels IV, to opt for the

succession law of your nationality instead of French law.

Brussels IV has been in place since August 17, 2015. Its intention was to simplify issues relating to succession across the EU. The objective of Brussels IV is to ensure that only one country's laws apply to the deceased's estate. The laws of the country in which a person is habitually resident at their death will apply to them, unless they have made a declaration during their lifetime.

Brussels IV gives residents in EU countries (with the exception of the UK, Denmark and Ireland) a single set of rules which govern the jurisdiction and applicable law in succession law matters. The new rules look primarily to the deceased's place of habitual residence, but an individual may elect that his succession should be governed by the law of his nationality (whether or not he is a national of an EU member state). The new rules also introduced a European Certificate of Succession, aimed at facilitating the administration of cross-border estates.

## **China**

Unlike common law countries, China possesses few legal instruments for processing a solid estate plan. But because China does not levy estate or inheritance tax, nor does it collect a gift tax, there is less demand for estate planning, which tends to focus on tax savings. However, family business succession is looming large in China, with many first generation entrepreneurs approaching retirement.

Under Chinese inheritance law, when a valid will is made, it is generally respected. So these estates pass to the beneficiaries designated in the will. When a person dies without having a valid will in place, the estate passes to heirs under the statutory succession rules.

China has a limited forced heirship regime under which dependents of the deceased are entitled to succession to the extent that they otherwise cannot support themselves, for example, those who are unable to work and have no source of income. As such, a family trust may be liable to forced heirship claims against trust assets.

Under the Chinese statutory succession rules, the first half of the estate is distributed to the spouse of the deceased as community property. The rest is distributed to the spouse, the parents and the children of the deceased in equal shares. The limited forced heirship regime cannot be avoided. All the assets, including those received by beneficiaries in other jurisdictions, are taken into account for the forced heirship regime.

For statutory succession purposes, the succession rules of the habitual residence of the deceased at the time of their death will apply, unless the asset is a real estate located in China where the Chinese succession rules will automatically apply. This can be avoided by making a will by the foreign national.

In the absence of a will, [Chinese statutory succession rules](#) apply to the deceased's real estate in China even if the deceased is a foreign national. Chinese laws do not recognize

the **doctrine of *renvoi***. By invoking *renvoi*, the court could rule that the law of another country would be the most appropriate law to apply in this case.

There are no other taxes on death or lifetime gifts, unless the gifts would be deemed as a transfer of assets, for example, gifts of shares or real estate between non-family members, in which case the individual income tax on deemed gains will be imposed on the transferor.

## **Russia**

Russian inheritance laws cover everyone who is domiciled (i.e., has his or her usual place of living, but not necessarily his or her nationality) in the Russian Federation, and also covers everyone including foreigners who own property in the Russian Federation.

Minor and disabled children of any deceased person domiciled in Russia, disabled spouse and parents, and any disabled dependants of the deceased must inherit at least one-half of the share each of them is entitled to inherit by law, irrespective of any testamentary provisions.

There are two types of inheritance: testamentary inheritance (when there is a will of a deceased) and intestate inheritance (in the absence of a will of a deceased and in other statutory cases). The deceased's estate incorporates the items and other property the deceased owned as of the date of the opening of the inheritance, including property rights and liabilities. Rights and liabilities inseparable from the personality of the deceased (e.g., rights to alimony), personal incorporeal rights and other intangible assets are not included in the estate.

If no provisions are made in prospect of death, a complex statutory order of intestate inheritance is applied to all persons covered by Russian inheritance law. The heirs-in-law (individuals only) include children of the deceased, his or her spouse and parents, brothers and sisters, other relatives and disabled dependants of the deceased.

The tax on the assets transferred through inheritance or donation that previously existed, was abolished effective January 2006. Alongside the abolishment of inheritance and gift tax, personal income tax applies in certain instances where individuals receive gifts.

In certain cases, individuals receiving income through inheritance may also be subject to personal income tax as a regular taxable income. There is no inheritance tax in Russia. There is no gift tax in Russia, although in certain cases personal income tax may be levied. There is no real estate transfer tax in Russia, although in certain cases personal income tax may be levied. There is no net wealth tax in Russia.

Russian tax residents are taxable in Russia on their worldwide income, generally, at a 13% tax rate (including, but not limited to, gifts in various forms and inheritance in special cases). For some types of income, such as dividends and material benefit, different tax rates are applied. Russian tax nonresidents are taxable only on their Russian source of income at a 30% tax rate on most types of taxable income (including, but not

limited to, income earned in Russia).

There are currently no estate tax treaties between the Russian Federation and other countries.

## **Saudi Arabia**

To understand the basis for [Islamic inheritance law](#), you will need to be familiar with inheritance laws in Arabia pre-Islam. The sole inheritance was given to the *asaba* (male relatives) of the deceased. The surviving male relatives inherited in order of family position; the son superseded the father, the father superseded the uncles and so on.

Islam has kept the position of the male inheritance principals, but with slight modifications to give women more security. Pre-Islam men inherited, but were not required to care for the females in their families with the inheritance; Islam encourages the opposite. In Islamic Inheritance, the male inherits twice that of the female, but is encouraged to care for the single women in his family from it.

Inheritance between non-Muslims is governed by the will, which has to be registered with the [Shariah Court](#), or witnessed by two adult Muslims. Non-Muslims cannot normally inherit from Muslims and vice versa, but if there is a will which applies to less than 30% of the estate, that portion of the estate can be transmitted across religious lines. There are no inheritance taxes in Saudi Arabia.

Saudi Arabia is governed by Shariah Law, which is a religious law that is based on the Quran and the teachings and practices of the Prophet Mohammed (the Sunna). It was borne out of the Islamic tradition governing all aspects of life. It regulates all of human activity, national and international, public and private, criminal and civil and is applied by courts.

Ultimately, Shariah Law has its own standards in resolving and enforcing sanctions on various cases. As such, in cases of estate settlement, inheritance and wills, certain rules apply. These cases take into consideration the allocation and distribution of shares/properties specified by the defendant or deceased to his family, company and others, following the rules of Shariah Law.

With regard to the law of inheritance, the Quran specifies that fixed portions of the deceased's estate must be left to the so-called "Quranic heirs". Generally, female heirs receive half the portion of male heirs. A Sunni Muslim can bequeath a maximum of a third of his property to non-Quranic heirs. The [residue](#) is divided between [agnatic](#) heirs.

### **Part 4**

In times of grief we turn to family. We might even discover new family members, as we seek to quench the pain of our loss. This was the case with Charlotte

Simmons, who found herself again at the Louvre Museum in front of *The Raft of the Medusa*.

She reflected on the disquiet of her own family who were scrambling to take every advantage they could to divide the family wealth, and receive the most possible for themselves, not unlike those on the raft, who had formed a bizarre family of sorts for their thirteen horrific days at sea together. These reflections did not give her all the relief she sought, but at least gave her a new perspective on her own situation.

She glanced to the side, and saw the same museum guard that had admonished her cell phone use the other day. The museum guard began, speaking rapidly in French, “Madame, I will be brief because I am on duty and need to observe the gallery as I speak. My apologies, I do not wish to intrude, but must tell you something about my life, about our lives. I have read of your loss in the newspapers.” Charlotte was startled, but with a slight nod asked her to continue.

The museum guard nervously told her story, taking in the gallery, and training her soft, kind brown eyes on Charlotte’s exquisite face. The museum guard, Rachelle Allard, was working part-time as a guard at the Louvre while studying at the Sorbonne University for a degree in Classical Literature. Several months ago her husband had been washed ashore in his native Brittany on the northwest shore of France. He had also drowned, in an accident while sailing near his parents’ home. And it turned out that Rachelle was a descendant of Charlotte Picard, the only woman who survived the sinking of the ship, *Medusa*, the same ship which inspired the painting that hung in front of them.

Charlotte remained silent, her mind spinning to comprehend what this vivacious, intelligent woman was telling her; an utter stranger, yet a new sister of sorts.

“Madame, I see that you wear the same belt that you wore the last time. It is a Versace with their logo, the head of the Medusa.” (Like all classical myths, the Medusa has several aspects: Medusa had the power to turn to stone all those who looked into her eyes, but also had the power to evoke love, which Versace had capitalized on to elicit love for their designs, thus the Medusa embraces both love and death. On the surface contrary aspects, but on a deeper level united with both aspects playing out in the sinking of the French ship, *Medusa*.)

“This is all so strange; I am not sure what all these connections mean for us, but they are real; as real as the deaths of our husbands, as real as our grief for them, and as real as the solace we can extract from this painting.

Madame, I must now go to another gallery. I hope we might meet again, but, if not, I leave you with my sincere wish for peace and joy in the new life you must create for yourself...for ourselves.” She left as tears began to fall, as tears fell in both their eyes.

What is handed down in families is a mixture of wealth and suffering. The proportions vary according to family circumstances. What the survivors make of this wealth and suffering is the beginning of a new generation, a new series of connections that either unite or oppose, much like love and death.

## **Conclusion**

Wealthy families frequently hold second passports, and have homes in foreign countries. Over time, family events like death, separation, and remarriage complicate estate plans. All of these factors can dissipate family assets.

Life insurance is recognized in almost every country worldwide as a safe, straightforward, and simple wealth transfer vehicle. The use of PPLI only adds to the benefits, since in a properly structured PPLI policy almost any asset can be held.

A PPLI policy passes assets directly to intended beneficiaries and keeps family wealth intact, giving families the maximum amount of privacy, asset protection, and tax efficiency.

## **If an EWP Structure had been used...**

- In the process of creating an EWP Structure, Andre Simmons’s estate plan would have been thoroughly discussed, and a will would have been part of this process. The orderly deposition of his assets would have been formulated in detail. All bequests would have been spelled out, leaving no doubt as to how his estate would be divided.
- An EWP Structure would address all possible issues involving succession. A trust would have been established outside of either the U.S., France, and New Zealand making the forced heirship laws of these countries mute on this point.
- The press would have few details to speculate about involving Andre’s assets, because in an EWP Structure the insurance company becomes the beneficial owner, and these assets are not a part of a public record, such as registers of beneficial ownership.
- The issue brought by Andre’s first wife would have been discussed in connection to the EWP Structure, so could not have been raised in any attempt to garner assets from the estate through nullifying his second marriage.

- All Andre's assets would be included in the EWP Structure, and provisions would have been made for all his companies continued operation or sale in the event of his death.
- The U.S., France, and New Zealand would not be able to compete to take tax dollars from the estate, because they would have been in an EWP Structure that would place them outside the reach of all three countries.

by [Michael Malloy](#), CLU TEP RFC.  
CEO, Founder @[EWP Financial](#)