# OPES Case Study 2

## Securing Retirement by Protecting and Consolidating Existing Offshore Assets

**For Use by Financial Advisers Only**

**The following case study is based on a scenario which is typical to South African residents and gives a detailed insight into how OPES accommodates a varied set of requirements and mitigates a range of risks unique to South Africa.**

> “Brian would like to secure his financial independence in retirement and at the same time introduce greater tax efficiency but retain flexibility and access to his investments when needed”

### Scenario Overview

Brian Todd (45) is a successful entrepreneur, married with one teenage child. He has recently returned to South Africa after having lived in the UK for 15 years, where he accumulated most of his existing wealth which includes:-

- £350,000 in Luxembourg-domiciled Unit Trusts
- £100,000 UK Stocks and Shares ISA (Individual Savings Account)
- £50,000 in an Isle of Man bank account
- A share portfolio of £75,000, comprising 15 stocks listed on the London & New York Stock exchanges

Brian would like to leave all these assets offshore and does not want to bring them into South Africa. He worries about the long term future of the Rand, the political climate and moves towards wealth tax and the potential for legal reforms which could affect his wealth.

Brian is also conscious of wanting to achieve real financial independence in retirement for him and his wife and doesn't believe that relying on Rand based assets will help him achieve that.

He's been made aware that under his current arrangement he needs a will for each of the foreign jurisdictions in which his investments are located to ensure a smooth probate process on his death. However, Brian doesn't want to go through the time, effort and cost of getting foreign attorneys involved to draft those wills. He's also concerned about the potentially lengthy and costly probate implications when he dies. He doesn't want his wife and child to have to wait to inherit and have the difficulty of dealing with such matters at a time of grieving.

Brian's accountant told him that he will also need to report all the income and gains from his offshore investments on his annual tax return and he doesn't want to deal with the administrative headache that involves. He understands that his investment activities will generate CGT on investment gains and income tax on dividends and interest. He also learnt that his ISA which is tax exempt in the UK is fully taxable in South Africa and he did not appreciate that.

Brian would like to introduce more tax efficiency whilst retaining flexibility and access to investments when needed.

## Providing a Comprehensive Range of Benefits

**Foreign assets held in own name**

**Historic Position**

✘ No asset protection

✘ Open to full foreign probate requirements

✘ Interest, dividends and capital gains taxable on an arising basis

✘ Subject to estate duty on death

✘ No efficient succession options

£350K Foreign Unit Trusts

£100K UK ISA

£50K Isle of Man Bank Account

£75K Foreign share portfolio

→ Consolidate assets by transferring to OPES → OPES International Retirement Plan

**Foreign assets held in OPES**

**New Position**

✔ Assets fully protected

✔ Foreign probate mitigated

✔ Interest, dividends and capital gains roll up tax free

✔ Not subject to estate duty

✔ Highly efficient succession options now available

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### Recommendation and Outcomes

**In consultation with his South African Financial Advisor Brian is introduced to a solution, OPES, that addresses his concerns regarding his foreign assets and also puts to rest his worries around political and legal changes in South Africa.**

### Advantages for the Todd Family

By consolidating his foreign assets into OPES Brian has achieved a significant improvement to his financial position. His investments are now fully protected and he has certainty that his family will be looked after on his passing. In addition Brian has achieved a much greater level of tax efficiency which will have very beneficial implications to the value of his assets over time and on his passing. Most importantly Brian has peace of mind and has achieved his aims for his foreign assets.

*His Financial Advisor highlights the key reason as to why Brian should be considering OPES:*

**Asset Consolidation** - his various offshore assets can easily be consolidated into OPES via in-specie transfers. This means he does not have to sell any of the investments but moves them into a single environment making administration significantly easier.

**Avoids Probate** – once the assets are transferred into OPES legal ownership changes from Brian to that of his plan. The advantage is that there is no longer a need for: foreign wills, attorneys, or executors as probate no longer applies on his passing. This will save significant cost and time in transferring the assets to his wife and or child.

**Seamless Succession** – Brian has the option under the plan for his wife and child to continue to benefit from those assets or have them distributed almost immediately on his death rather than having to go through his Estate. Either way his desire for his family to inherit the assets quickly is met.

**Tax Efficiency** – under his OPES plan there is no need for Brian to report income and gains that accumulate in his plan. This gives him the tax efficient environment he was looking to achieve. In addition Brian learns that on his death the plan is not subject to estate duty in South Africa saving him a significant 20% tax on the assets and a further 3.99% on executor fees.

**Asset Protection** – as an entrepreneur Brian is particularly vulnerable to attack from creditors etc. so OPES removes that worry as the assets contributed to his plan are not in his name. This also meets his need to mitigate legal and political risks associated with South Africa as his plan's assets do not fall directly under South African legislation.

**Pre-Retirement Liquidity** – Brian still has access to his assets via a 40% loan facility prior to the age of 50 so his desire for accessibility is met prior to 50.

**Post-Retirement Flexibility** – from the age of 50 Brian can access 100% of his plan's assets if needed. This can be done very tax efficiently as he can draw the full value of the contributions without any tax liability. Thereafter benefits would be subject to CGT at a max 13.65% which is significantly lower than income tax rates.

**Brian didn't realise there was a structure available that was able to address all his concerns for his offshore assets in this manner. He'd looked into offshore trusts as an option but felt they were expensive and wasn't sure whether to donate the assets and pay the tax up-front or sell them to the trust via a loan account which would just create further issues down the line.**

**He therefore decided that the OPES was the best vehicle available to address all of his needs. Not only would it make his life a lot simpler, but more importantly it would ensure his retirement would be secure whilst having the peace of mind his wife and child were fully protected should anything happen to him irrespective of the future for South Africa.**

## Financial Outcomes

- Mitigation of estate duty **SAVING BRIAN R1,955,000**
- **SAVINGS OF** executor fees **R76,245**
- **NO TAX ON INCOME** and gains arising in the plan
- **NO TAX ON** return of **CAPITAL**
- Thereafter benefit taxed at maximum of 13.65% which is **SIGNIFICANTLY MORE FAVOURABLE** than income tax rates
- **DISTRIBUTION OF ASSETS WITHIN 7 DAYS**, saving on average 358 days on the average estate wind up

The financial outcomes achieved by Brian significantly outweigh his previous arrangements and generate significant savings for him during his lifetime and thereafter his family on his passing.

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