

From The Boardroom To The Living Room

Key legal considerations for high-net-worth households

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The unique needs of high-net-worth individuals and their families necessitate a nuanced understanding of the legal landscape, especially when acquiring residential property and setting up a household. There are several compliance risks that individuals and their advisors should approach carefully, including these key areas:

USING TRUSTS AND OTHER PRIVACY STRUCTURES TO ACQUIRE PROPERTY

With the volume of data available on the internet, there is an increased desire for an opaque structure to acquire and own a family residence to maintain private the home address or ownership. While these “blind trusts” or “nominee” arrangements have long been used, the complexity of the structures has grown substantially. In these arrangements, an individual or entity holds title to real property as a matter of public record for the benefit of the true owner, taking action at the authorization of the true owner, and are best utilized at the initial inception of when the property is being purchased. However, the efficacy of the privacy maintained by such an arrangement requires all parties involved in the real estate acquisition to maintain and respect the privacy structure on an ongoing basis, including with respect to maintenance of the property (e.g. taxes, insurance, utilities and bills, subscriptions, and deliveries).

Several new reporting requirements effective in 2024 and 2025 are implicated where a trust or entity is used to acquire and own real property. This includes the federal Corporate Transparency Act, which requires that certain entities report information about their beneficial owners and those individuals who have substantial control of the entity to FinCEN, as well as new anti-money laundering regulations for residential real estate transfers effective December 1, 2025, which require reporting of residential real estate transactions gifted to or purchased by a trust or a legal entity (such as a corporation, partnership or LLC) in an “all cash” purchase or with private lending.

BUYING OR BUILDING HOMES

The National Association of Realtors settlement that came earlier this year and local “mansion” taxes already in effect are dramatically changing home buying and selling for high-net-worth households. New processes require upfront contracts between buyers and their agents and alter broker commission structures. Beyond those changes, the use, benefits, and efficacy of non-disclosure agreements (NDAs) as part of the homebuying and home building processes should also be examined. It’s important to understand recourse in a breach and common leak points before making the significant

decision to purchase or build a new home.

Building your dream home comes with legal hurdles to address, including developing an appreciation for the complexity of the process and its risks. Careful attention must be paid to assembling construction, design, and management teams to help mitigate risks of projects coming in over-budget and late. Engaging contractors and project managers early in the process

can also help manage time and

cost considerations. Even the “smaller” contracts are important and should be carefully reviewed to ensure uniform dispute resolution provisions and to protect owner confidentiality. Consider working with an attorney

to create a form addendum to speed up review of the smaller contracts. Spending time at the start to properly onboard the team can pay off in the end.

EMPLOYING HOUSEHOLD STAFF

It is common for high-net-worth households to employ a sizable staff and, similar to running a business, employment law applies. Thus, it is critical to understand the various types of employment relationships and the regulations governing them. Household staff are generally W-2 employees, rather than 1099 independent contractors, meaning they will earn hourly wages, applicable overtime, and need meal and rest breaks. Not complying with these regulations can land you in hot water. Certain positions, such as nannies and caregivers for the elderly or disabled, have their own requirements. As high-income households become increasingly global, travel pay is also becoming more of a factor.

Utilize strong employment contracts to address specifics such as job duties, schedule, pay policies, and paid sick time. Confidentiality agreements should be used to protect privacy. Take care when formalizing the employment relationship, whether hiring/employing individuals through an entity or directly, and treat the relationship as you would in business, with regular evaluations and documentation of any performance issues. Arbitration agreements signed at the time of hire can be used to mitigate exposure should the employment relationship go south, as can severance contracts with a release of claims at the end of an employment relationship.



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