

PRIVATE CLIENT

Panama



Private Client

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Quick reference guide enabling side-by-side comparison of local insights, including into tax; trusts and foundations; same-sex marriages; civil unions; succession; capacity and power of attorney; immigration; and recent trends.

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Table of contents

TAX

Residence and domicile
Income
Capital gains
Lifetime gifts
Inheritance
Real property
Non-cash assets
Other taxes
Trusts and other holding vehicles
Charities
Anti-avoidance and anti-abuse provisions

TRUSTS AND FOUNDATIONS

Trusts
Private foundations

SAME-SEX MARRIAGES AND CIVIL UNIONS

Same-sex relationships
Heterosexual civil unions

SUCCESSION

Estate constitution
Disposition
Intestacy
Adopted and illegitimate children
Distribution
Formalities
Foreign wills
Administration
Challenge

CAPACITY AND POWER OF ATTORNEY

Minors

Age of majority
Loss of capacity

IMMIGRATION

Visitors' visas
High net worth individuals

UPDATE & TRENDS

Key developments

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Panama



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TAX**Residence and domicile****How does an individual become taxable in your jurisdiction?**

Residents and non-residents of the Republic of Panama are subject to taxation.

Panama taxation law is based on the territoriality principle whereby all foreign source income is exempted, but income and revenues produced within Panama are subject to Panamanian tax.

In other words, income tax is levied on all revenues produced within the boundaries of the Republic of Panama, irrespective of where the income is received and of the domicile or residence of the taxpayer. Activities that take place outside of Panama are considered foreign source income and not liable to tax.

Law stated - 17 October 2021

Income**What, if any, taxes apply to an individual's income?**

An individual's income generated from salaries, business investment or commercial activities within the Republic of Panama will be subject to income tax and other taxes (capital gain, value added tax (VAT), dividend, interests, etc).

Income tax chart

Taxable income	Tax rate
Up to US\$11,000	0 per cent
From US\$11,000 up to US\$50,000	15 per cent for the exceeding of US\$11,000 up to US\$50,000
More than US\$50,000	US\$5,850 for the first US\$50,000 and a rate of 25 per cent for any amount above of US\$50,000

Law stated - 17 October 2021

Capital gains**What, if any, taxes apply to an individual's capital gains?**

Capital gains derived from the sale of securities and negotiable instruments are subject to a 10 per cent tax. The purchaser must withhold 5 per cent of the sales price as an advance payment of income tax and remit that amount to the tax authorities.

Profits from the sale or transfer of real property are considered capital gains. If the transaction giving rise to the gain is part of the taxpayer's ordinary business activities, the gain is subject to the corporate tax rate; if the transaction is not part of the taxpayer's ordinary business activities, the gain is tax at a reduced rate of 10 per cent. However, in the latter case, the purchase must withhold 3 per cent of the higher of the purchaser price or the ratable value of the property as an advance payment of tax.

Law stated - 17 October 2021

Lifetime gifts

What, if any, taxes apply if an individual makes lifetime gifts?

In Panama, there are no taxes applicable to lifetime gifts.

Law stated - 17 October 2021

Inheritance

What, if any, taxes apply to an individual's transfers on death and to his or her estate following death?

In Panama, there are no succession taxes.

Law stated - 17 October 2021

Real property

What, if any, taxes apply to an individual's real property?

In accordance with the tax legislation (recently updated in 2017), individuals owning real property are subject to pay property taxes every year in accordance with the below described chart.

Property tax chart – main family property

Property value	Tax rate
US\$0 to US\$120,000	Exempted
US\$120,000 to US\$700,000	0.5 per cent
US\$700,000 and above	0.7 per cent

Second properties and commercial real estate

Property value	Tax rate
US\$0 to US\$30,000	Exempted
US\$30,000 to US\$250,000	0.6 per cent
US\$250,000K to US\$500,000	0.8 per cent
US\$500,000 and above	1.0 per cent

It is quite important to note that any property tax exemptions granted prior to the new property tax legislation will be honored in accordance with the time frame awarded.

Law stated - 17 October 2021

Non-cash assets

What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?

Import duties, VAT and luxury could apply for the import of goods.

- VAT: 7 per cent is the general basis; however, some products are subject to 10 per cent or even up to 15 per cent
- Import duties: based on the goods.
- Luxury tax: 0 per cent up to 25 per cent
- Taxes are calculated on cost, insurance and freight value.
- Import of goods up to US\$100 are exempted of VAT and duties.

Law stated - 17 October 2021

Other taxes

What, if any, other taxes may be particularly relevant to an individual?

Residents and non-residents of the Republic of Panama are subject to indirect taxes, which are related to the consumption of goods or use of services.

- VAT is normally 7 per cent and it is applied to several goods and services.
- Luxury tax may apply to several goods such as cigarettes and tobacco, liquor, jewelry, vehicles and others. The applicable rate will vary upon the goods or services.

Law stated - 17 October 2021

Trusts and other holding vehicles

What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Asset holding vehicles including trusts, corporations and foundations are not taxable as long as they do not generate income and revenues within Panama. If such vehicles produce income and revenue within Panama, then they will be taxable at the corporate rate of 25 per cent from net revenue.

Law stated - 17 October 2021

Charities

How are charities taxed in your jurisdiction?

Charities officially registered as non-profit entities before the Ministry of Government and the Tax Office will not be subject to taxation in connection with income received from donations.

Donors to officially registered charities will be capable to deduct any donation performed.

Law stated - 17 October 2021

Anti-avoidance and anti-abuse provisions

What anti-avoidance and anti-abuse tax provisions apply in the context of private client wealth management?

Please see www.lexology.com/gtdt.

Law stated - 17 October 2021

TRUSTS AND FOUNDATIONS

Trusts

Does your jurisdiction recognise trusts?

Panama law caters for all the main types of trust normally found in traditional common law jurisdictions such as:

- discretionary trusts;
- fixed interest trusts;
- charitable trusts;
- investment trusts; and
- real estate trusts, among others.

One of the basic features of taxation of trusts in Panama is that, unlike in many other Latin American countries (where in the case of trusts with settlors as beneficiaries the taxpayer is the settlor-beneficiary themselves), the taxpayer is deemed (in all cases) to be the trustee in his capacity – an obligation that is limited to the tax liability generated by the trust fund and to the extent of the trust fund itself, in accordance with the principle that the trust is a separate patrimony from that of the trustee.

The territorial tax system immediately assures the settlor that no income other than that generated within Panama, and only from non-exempt sources, will be taxed. Panama law expressly provides that, once a beneficiary has received trust property from a trust intended to have effect after the death of the settlor, all income deriving from such transfer is income tax exempt in Panama, making an excellent case for looking into suitable residence arrangements either in Panama itself, or in a country where foreign source income is only taxed on remittances.

It should be pointed out that there is no estate tax, succession tax, nor any kind of forced heirship legislation in Panama or recognition of foreign forced heirship rulings. Once an individual has transferred property into a Panama trust structure during his lifetime, no one can claim any rights over that property by way of right of inheritance unless they are named beneficiaries of the trust.

Panama's trust law also allows settlors to establish trusts governed by a foreign law, and foreign trusts are fully recognised. Panama is a signatory to the Treaty of Bustamante. Panama is not a party to the Hague Convention on the Law Applicable to Trusts and on their Recognition; however, the Trust Law complies with the trust concepts expressed therein. Panama law ensures that rules such as the forced heirship do not apply. A properly executed foreign trust will be recognised and enforced in Panama, provided that the settlor and the trustee agree to abide by the formalities and requirements of Panama law. The trustee individually can make this statement if authorised by the trust deed. Accordingly, foreign investors seeking to use the Panama trust to streamline their assets or organise their estate need not be concerned about the Panama public policy rules.

Law stated - 17 October 2021

Private foundations

Does your jurisdiction recognise private foundations?

Foundations fully own the assets contributed to them and are managed by a foundation board or council. The founder of the foundation (the person establishing the foundation) normally establishes the foundation for a particular purpose.

The organs of the foundation are strictly bound to this purpose. The founder decides the beneficiaries of the foundation and to which benefits the beneficiaries are entitled. All the intentions of the founder are written down in the by-laws of the foundation. The foundation board is entitled to distribute assets to the beneficiaries of the Foundation, based on the by-laws of the foundation. The founder can also appoint an advisor or guardian to control the foundation board.

Significant advantages are offered by the Panama Private Interest Foundation. The following are some highlights:

- Total exemption of taxes in the Republic of Panama, including without limitation, income tax, wealth tax, real estate tax, inheritance tax, sales and transfer tax and others.
- There is no legal requirement to disclose the name of the real founder, beneficiary or protector.
- There is no requirement to file any annual tax return or financial statement.
- There is no obligation to hold an annual meeting of the foundation council, the founders or the protectors
- There is no legal requirement of maximum authorised capital.
- The payment of the foundation capital is not required for the incorporation of the foundation and there is no maximum time or deadline to make such contribution.
- There is no limitation in respect of perpetuities, accumulation of capitals and other restrictions which are required in similar structures in other jurisdictions, such as the Anglo-Saxon or common law trust.
- The private interest foundation can engage in any business or civil transactions (only in exceptional cases) in part of the world and in any currency.
- The founders, members of the foundation council, beneficiaries and protectors may be individuals or corporations of any nationality.
- The members of the foundation council need not be founders.
- The founders, the protectors and the members of the foundation council may be beneficiaries of the foundation.
- There is no limitation on the maximum permitted number of founders, members of the foundation council, beneficiaries or protectors.
- The founders and the members of the foundation council may hold their meetings in any country and may be represented by proxy.
- The foundation books and accounting books may be maintained in Panama or abroad.
- The foundation charter can be signed by an attorney in fact or by a trustee without the need to disclose the name of the founder.

Private Interest Foundations incorporated in other countries can be redomiciled or continue existing as Panama Private Interest Foundations and vice versa following a simple continuation procedure.

Law stated - 17 October 2021

SAME-SEX MARRIAGES AND CIVIL UNIONS

Same-sex relationships

Does your jurisdiction have any form of legally recognised same-sex relationship?

Panama still has not recognised any form of legalised relationship status for same sex couples

Law stated - 17 October 2021

Heterosexual civil unions

Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?

Panamanian law does not comprehend any type of legalised union among heterosexual couples other than marriage. There are many forms to acquire a marriage status, such as a common law marriage, although this one does not produce any legal effects, unless the couple request the recognition of their common law marriage, before the authorities, which will immediately transform the status from single to married. Therefore, still constituting the same type of legal relationship of marriage duly recognised by the law.

Law stated - 17 October 2021

SUCCESSION

Estate constitution

What property constitutes an individual's estate for succession purposes?

Any assets located in Panama, registered or non-registered, under the ownership or possession, included or not, on a person will, are subject to be inherited through a succession process.

Law stated - 17 October 2021

Disposition

To what extent do individuals have freedom of disposition over their estate during their lifetime?

During their lifetime an adult person is entitled to dispose of their assets, as long as they have complete control over them, in any way they find suitable for their conditions without any boundaries that might limit their will.

Law stated - 17 October 2021

To what extent do individuals have freedom of disposition over their estate on death?

As long as a person prepares a will in time and through the valid means recognised by the law, in principle, the freedom of disposition over a person's estate is total in Panama.

Nonetheless, there are some variables that can limit their will to secure some interests. A person may be limited in disposing a part of the estate in those cases where the testator has an underage child or an adult son or daughter who is under 25 and is still completing education, or an adult son or daughter who is incapable of sustaining him or herself owing to a medical condition, in order to provide them enough funds to cover financial support or their needs.

In any of the previously mentioned cases, the will can be approved, although if a person appears before a judge after

the death of the testator claiming support for a child under these conditions, the judge will limit the estate of the deceased and ensure the provision of sufficient funds from the estate to cover the child's support. On the other hand, if the deceased does not leave a will a judge, after submitting a motion, will dispose of the deceased's estate in favour of his or her legally recognised married partner and recognised sons or daughters.

Law stated - 17 October 2021

Intestacy

If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

If an individual dies in Panama without leaving valid instructions for the disposition of the estate, after the submitting of a motion a judge will dispose of the deceased's estate in favour of the deceased's legally recognised married partner and recognised sons or daughters in equal parts. If there is no wife or sons, it will go to their closest ascendants. If there are no ascendants alive, the estate will go to the closest relative. If there are no relatives, the assets will be transferred to the government.

Law stated - 17 October 2021

Adopted and illegitimate children

In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

If an individual dies without leaving valid instructions for the disposition of the estate, there is no difference between adopted or illegitimate children among natural legitimate children. But if the individual did not prepare a valid will, the law will not recognise the rights of an illegitimate or unrecognised son. Properly registered adopted children will always be treated as a natural legitimate child. Properly registered adopted children will always be treated equally as a natural legitimate child.

Law stated - 17 October 2021

Distribution

What law governs the distribution of an individual's estate and does this depend on the type of property within it?

The Civil Code is the statute that governs the distribution of an individual's estate regardless of the type of property within it. Nonetheless, the location of the assets determines the applicable law, therefore *lex situs* governs all matters in Panama relative to the estate.

Law stated - 17 October 2021

Formalities

What formalities are required for an individual to make a valid will in your jurisdiction?

There are three types of will valid in Panama. The simplest one is a handwritten sheet of paper signed by the individual. The only formality required for this type of will is that it has to be written and signed by a person of legal age and it has

to include the date on which it was signed.

The most commonly used type of will is a deed drafted by a Panamanian lawyer, properly notarised by a Panamanian notary.

Law stated - 17 October 2021

Foreign wills

Are foreign wills recognised in your jurisdiction and how is this achieved?

Foreign notarised wills are recognised under Panamanian law. As long as the will complies with the formalities established by the law of the country in which it was rendered and the document is legalised by apostille under the Hague Convention or by a legalisation process at the Consulate of Panama, the document will be valid and executable in Panama.

Law stated - 17 October 2021

Administration

Who has the right to administer an estate?

According to Panama law, the testator has the authority to designate a person to administer the estate. If there is no determination on the will, the court will appoint an administrator of the estate.

The only limitation, according to Panamanian law, is that the administrator must be a person of age, capable of undertake legal obligations.

Law stated - 17 October 2021

How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

The only way to pass title over the deceased's assets is through a judicial process before a Panama court.

Depending on the successor's age and conditions, commonly there are no administrators, unless there are underage children or persons with limited capabilities that might not be able to freely dispose of their assets.

Normally, the assets remain on the same condition, while heirs go through the process before the court until the judge renders a judgement recognising their rights as successors.

Law stated - 17 October 2021

Challenge

Is there a procedure for disappointed heirs and/or beneficiaries to make a claim against an estate?

Within the required judicial process, there is a phase, in which disappointed heirs, beneficiaries or even creditors are able to show up before the court and submit a motion supporting their claimed right.

This phase begins with a public announcement, of the deceased succession process been open, rendered by the court, and published on a national journal by the heirs, for five consecutive days.

CAPACITY AND POWER OF ATTORNEY

Minors

What are the rules for holding and managing the property of a minor in your jurisdiction?

In cases in which the one or more heirs are underage children, the court will appoint an administrator of their assets until they reach the age of 18. Most of the time, this administrator is the same living relative who retains custody of those children.

The rules for holding and managing the property of a minor are open to the testator's will. If the deceased does not leave instructions, then the rules of the Panama Civil Code will apply.

Law stated - 17 October 2021

Age of majority

At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

An individual attains legal capacity for the purposes of holding and managing property at the age of 18.

Law stated - 17 October 2021

Loss of capacity

If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

If a person loses the capacity to manage his or her affairs, a judge must declare him or her incompetent and appoint an administrator of his or her assets. Normally, this is decided in a custody process, in which a relative requests to be named custodian, and after the court's judgment this person may gain administration powers over the assets.

Law stated - 17 October 2021

IMMIGRATION

Visitors' visas

Do foreign nationals require a visa to visit your jurisdiction?

Panama is visa-free for an extensive list of countries; nevertheless, the immigration authorities do have a list of citizens that require a travel visa to Panama as such countries are considered a massive migration risk or a threat to local economy.

Citizens of some countries may have more restrictions than others.

In general, a foreign national may stay in Panama up to six months, nevertheless, there are some citizenships that the immigration authorities have limited the stay time to one month or up to three months.

Law stated - 17 October 2021

High net worth individuals

Is there a visa programme targeted specifically at high net worth individuals?

There are few programmes that could be considered as targeted at high net worth individuals based upon the investment amount (ie, a person of means programme, free trade zone investor, large investor programme, second passport and others).

Our immigration regulations entitle the principal applicant to claim family members as dependents under the following rules:

- her or she is the principal applicant's parents;
- he or she is the principal applicant's spouse;
- they are the principal applicant's children (up to 18 years old); and
- they are the principal applicant's children between 18 and 25 years (if such children are still under the economical protection of the applicant as well as attending university or a college).

Depending on the residency programme, the granting of permanent residency status could be in different stages.

There are several immigration programmes that grant permanent residency status to the applicant. These programmes are:

- Retiree: the principal applicant must be receiving from a government or private entity a lifetime pension of no less than US\$1,000 per month.
- Friendly Country: the principal applicant must be from a citizenship considered as part of the friendly nation list and further comply in creating an economic link with Panama by means of setting up a business or purchasing a real estate. Applicant must include an economical asset (purchase of a US\$200,000 real estate) or professional (employment contract and work permit) link to Panama.
- Reforestation Investor: a Reforestation Investor applicant must invest US\$350,000 in a reforestation plantation field. Immediate permanent residency with the option of work permit, plus right to opt for Panamanian Nationality & Passport after five years.
- Qualified Investor: requires a US\$500,000 investment in real estate or securities, or a US\$750,000 time deposit investment in local bank. Any option is required to be held for a minimum of five years. Grants immediate permanent residency.

Other programmes, such as the reforestation investor and some employment programmes, initially grant a two-year temporary residency status and further the right to apply for a permanent residency status.

All permanent residency programmes (Friendly Country, Reforestation, Qualified Investor or Employment) grant the applicant the right to apply for citizenship after five years. However, the Retiree program is not included.

Law stated - 17 October 2021

UPDATE & TRENDS

Key developments

Are there any proposals in your jurisdiction for new legislation or regulation, or to revise existing legislation or regulation, in areas of law relevant to high-net worth individuals, particularly those coming to or investing in your jurisdiction? Are there any other current developments or trends relevant to such individuals that should be noted?

No updates at this time.

Law stated - 17 October 2021

Jurisdictions

	Andorra	Cases & Lacabra Abogados SLP
	Australia	Kalus Kenny Intalex
	Austria	DORDA
	Belgium	Loyens & Loeff
	Bermuda	Butterfield Trust
	Cayman Islands	Butterfield Trust
	Colombia	Rimôn
	Cyprus	Patrikios Pavlou & Associates LLC
	Germany	POELLATH
	Guernsey	Butterfield Trust
	Hong Kong	Charles Russell Speechlys LLP
	Ireland	Matheson
	Japan	Anderson Mōri & Tomotsune
	Liechtenstein	Gasser Partner
	Malta	GVZH Advocates
	Monaco	CMS Pasquier Ciulla Marquet Pastor Svara & Gazo
	Panama	Pardini & Asociados
	Spain	Cases & Lacabra Abogados SLP
	Switzerland	Kellerhals Carrard
	United Kingdom - England & Wales	McDermott Will & Emery
	USA	Holland & Knight LLP