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Guyana
Private Client

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This country-specific Q&A provides an overview of private client laws and regulations applicable in Guyana.

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Guyana: Private Client

1. Which factors bring an individual within the scope of tax on income and capital gains?

Both income tax and capital gains tax exist in Guyana.

Income Tax

Residents are subject to tax on their worldwide income, being any gains/ profits from any trade business, profession or vocation.

Non-residents are only subject to tax on the income derived from Guyana; they are not subject to tax on income produced abroad (that is, outside of Guyana), whether or not remitted to Guyana. However, income is deemed to have derived from Guyana, where the gains or profit in question arise from any employment exercised or discharged in Guyana (including any agricultural, manufacturing, or other productive undertaking).

A resident is an individual who (a) permanently resides or intends to permanently reside in Guyana, excluding reasonable temporary absences consistent with such intention, (b) resides in Guyana for more than 183 days in the year, or (c) is employed in the service of the Guyana government in an office the duties of which require he or she shall reside outside Guyana.

Capital Gains Tax

Capital gains tax is paid by individuals who have disposed of real property or other assets such as shares and made a gain; if the sale price exceeded the cost of acquisition (by the original owner) of the asset, if the value at the time it was acquired exceeded the value at the time of ownership, or if the value of the asset has exceeded its market value as at January 1, 2011.

2. What are the taxes and rates of tax to which an individual is subject in respect of income and capital gains and, in relation to those taxes, when does the tax year start and end, and when must tax returns be submitted and tax paid?

Tax assessment year, tax payments and tax returns

The tax assessment year in Guyana is the same as the calendar year. It starts on 1 January and ends on 31 December, with a special allowance for a different assessment year for a taxpayer who shows they usually prepare their accounts on some other day than 31 December. In any event, tax is charged, levied, and collected for each tax assessment year upon the chargeable income of any person for the year immediately preceding the year of assessment.

Employed individuals pay taxes by payroll deduction under the pay-as-you-earn (PAYE) system. The employer must deduct and pay taxes to the tax authority on the 14th day of the month following the payment of the employee's income. Self-employed individuals are to pay taxes quarterly in advance on 1 April, 1 July, 1 October and 31 December, yearly. Outstanding balances are payable on or before 30th April of the following year.

Every individual whose income exceeds the yearly threshold (for 2024 (to be assessed in 2025), this is GY1,200,000.00 (currently approximately US$4,892.09 or GB£3,877.15[1]) is required to file a tax return, unless the income is subject to withholding tax. Tax return filings must be done by 30th April (or the next business day where the 30th falls on a weekend or holiday), yearly.

Income Tax

Income Tax is applied to chargeable income. The chargeable income of an individual in an assessment year is ascertained by deducting the greater of GY$ 1,200,000.00 (currently equivalent to approximately US$5,769.79 or GB£4565.51) or 1/3 of the individual's total income from all sources except income subject to withholding taxes. The tax on chargeable income is 28% on an individual's annual income less than GY$2,400,000.00 (US$11,539.57 or GB£9,131.03) and 40% on annual income greater than the said amount (the remaining balance).

Self-employed individuals with a net income (after expenses and allowances) of GY$3,600,000 (currently equivalent to approximately US$17,309.36 or GB£13,696.55) and below are allowed a personal allowance (free pay) of GY$1,200,000 (currently equivalent to approximately US$5,769.79 or GB£4,565.51) annually.

- Deductions

Chargeable income is calculated by deducting all outgoings and expenses incurred in the production of the individual's income wholly and exclusively during the year immediately preceding the year of assessment. No expenses are deductible against employment income. However, expense deductions apply in the cases of a business operation.

Business deductible expenses include interest on money borrowed; rent paid as a tenant for commercial land or buildings; a sum equivalent to the cost of replacing obsolete machinery for trade, business or profession minus depreciation and any sums realised from the sale thereof; sums expended on the repair of premises, plant and machinery employed in acquiring income or renewing, repairing or altering any implement, utensil or article so employed; bad debts or doubtful debts incurred in trade or business from the previous assessment year; rates and taxes on immovable property, fire insurance policy premiums on commercial property; national insurance contributions by employees; and any charge or annuity not paid out of a superannuation fund, payable as a charge on the property of persons by deed, will or otherwise, personal debt or contract obligation.

Incurred losses in any year from a person's trade, business, profession or vocation may be carried forward indefinitely to offset taxable income in the preceding year or years until it is completely used. However, such offsetting cannot reduce taxable income by more than 50% in any year.

Mortgage interest relief is available except in respect of a corporate body. Where an individual was resident in Guyana in the year immediately before the assessment year, the interest an individual pays to a financial institution or approved mortgage finance company on housing mortgage loans is deductible. However, the mortgage must relate to a principal of not more than GY$30 million (US$144,244.64 or GB£114,146.56); and the purchase of land for constructing a residential building, the construction of a residential building or the acquisition of a residential building, which such individual occupied as a first-time homeowner.

- Exclusions to taxation on income

No income tax is levied on (i) medical or dental expense allowance for a full-time director; (ii) subsistence, travelling, entertainment or expenses allowance, provided the same is so used; (iii) vacation allowance less than one month's gross salary; (iv) allowances which the Minister certifies as the costs of living and performing duties outside of Guyana including the cost of such person in performing his duties a representative of Guyana; (v) medical discharge or severance pay benefits or any station allowance; (vi) dividends paid by foreign companies, interest or discount, (vii) any yearly payment except that on a pension fund; (viii) rents, royalties, premiums and other profits from property; (ix) paid medical and life insurance premiums from the income of all individuals subject to a 10% of the individual's income cap or GY$600,000 (US$2884.89 or £2282.93) annually whichever is less , whichever is less and ; (x) interest earned on savings accounts of a person 60 years or over at the beginning of the year preceding the assessment year or incapacitated by illness and infirmity with income from all sources being less than GY$1,200,000 (US$5,769.79 or GB£4,565.51) .

In the latter instance, where the income is greater than GY$1,200,000 (US$5,769.79 or GB£4,565.51), such a person, at their option, is subject to income tax on all sources of income, subject to withholding tax deductions.

- Exemptions

Exempt from income tax are the following: (i) official emoluments received by the President, Chancellor, and Chief Justice; (ii) wound and disability pensions and gratuities granted to members of the Guyana Defence Force; (iii) income derived from an educational endowment such as a scholarship, exhibition, or bursary held by a person receiving full-time instruction at a university, college, school or educational establishment; (iv) emoluments payable to foreign government personnel whether employed directly or under any contract with any public or private organisation concerning the technical-cooperation or assistance programme, emoluments of any incentive scheme approved by the minister, (v) emoluments payable as supplements to salaries by the Government of the United Kingdom to persons employed in Guyana under the British Expatriates Supplementation Scheme (v) pensions, or gratuities paid in lieu of pension to a government employee concerning employment contracts or service and annuities paid out of superannuation funds; and (vi) income artists earn during festivities approved by the Tourism Ministry and the tax authority.

However, dividends, interests, bonuses, salaries or wages paid out of exempt income are subject to tax.

There is no special tax treatment for offshore income or carried interest.

Capital Gains Tax

- Nature and Rate of the Tax

Capital gains tax is levied at a rate of 20% upon net chargeable capital gains accruing in or derived from

Guyana or elsewhere, and whether or not received in Guyana, in relation to a change in ownership of an individual's assets. A change in ownership of assets refers to any change in ownership of any property whatsoever (including the sale, disposal, transfer, exchange); surrender or relinquishment of any right in property except a life insurance policy; transfer of any right in property save a trustee's rights; redemption of any shares, debentures or other obligations; dissolution of business or liquidation of company, amalgamation or merger of one or more businesses; or permeation of a company or commission of reward earned on a transaction.

There are a few special considerations concerning certain changes in property ownership. For example, where capital gains arise from a change of property ownership upon a donation of property by its owner or any other person, the gain is deemed to be that of the donor. In this event, where the property is given by gift or otherwise acquired by way of an arms-length transaction, acquisition and disposal are deemed to be for a consideration equal to market value.

- Deductions and Exemptions

Net chargeable capital gains refer to net capital gains in the relevant assessment year minus the net capital loss in previous years (which have not yet been set off). Provided there are no equivalent deductions under the Income Tax Act, deductions are allowed for the expenses incurred (a) in the property acquisition by the owner before any change in ownership, (b) during improvements, additions or alterations to the property, and (c) by the owner in the transaction, which resulted in the change of ownership.

Individuals are exempt from paying this capital gains tax where (i) in the year preceding assessment, the net chargeable capital gain of the individuals is equal to or less than GY$500,000.00 (US$2,404.08 or GB£1,902.44); (ii) during the assessment year or within 60 days thereof, property used for private residence is sold, and the sale proceeds are used to purchase another private residence, which is equal to or greater in value; (iii) gains are treated as profit or income under the Income Tax Act; (iv) the change in ownership was effected more than 25 years ago; (v) acquisition or disposal is related to any non-profit institution or endowment (ecclesiastical, charitable, educational, or public natured (governmental, national or international)); (vi) the gains are derived from a change in ownership of shares/stock in a public company limited by shares. In the latter instance, gains are not deemed part of the person's chargeable income under the Income Tax Act.

Footnote(s):

[1] Bank of Guyana weighted average exchange rate for the week of 8 December 2023: US$1 to GY$207.98 and GBP£1 to GY$262.84. This is the rate used throughout this guide. Access updated rates on the Bank of Guyana website at www.bankofguyana.org.gy/bog/ .

3. Does your jurisdiction provide advantageous tax regimes for individuals directly investing in or holding certain types of assets from an income tax or capital gains tax perspective?

There are no specific exemptions with respect to income tax or capital gains tax for individuals directly investing in or holding certain types of assets. Capital assets held for more than 25 years are not subject to capital gains tax upon subsequent disposal. There are advantageous tax regimes for certain categories of persons, but in relation to taxes other than income tax and capital gains tax.

An individual or business may pay little or no tax, that is, Customs Duty, VAT or Excise Tax if they are importing items as a Manufacturer, a Pharmacist, a Large-Scale Miner or if they have an Investment Agreement with the Government of Guyana. Likewise, if their business makes use of local forestry products such as lumber, sand, stone, etc. they will be allowed to claim the VAT paid even though they will not be allowed to charge their consumers VAT.

Categories of persons who may apply for tax exemptions are as follows:

- Manufacturers

Manufacturers who export more than 50% of their manufactured products may obtain exemption on the importation of raw/packaging materials. Qualified manufacturer applicants (and particularly manufacturers of flour and poultry feed) may be subject to exemption from the payment of Customs Duty and zero-rating of Value-Added Tax. All other approved manufacturer applicants are exempt from Customs Duty on import of raw and packaging materials.

- Fishing Industry

Established fishing operations with fishing licences are eligible for Customs Duty exemption on items such as spares, packaging materials, fishing nets, floats etc. Small scale establishments may be eligible for zero-rating of Value-Added Tax, and Customs Duty exemption on operation materials.

- Forestry Products

Supplies of locally produced sand, stones, concrete blocks, plywood, logs and lumber of a type and quality used in construction and housing are zero-rated for Value Added Tax.

- Large Scale Miners

Large Scale Miners may be eligible for tax exemptions including the zero-rating of Value-Added Tax, and exemption from the payment of Excise Tax.

- Pharmacies

Pharmacies are eligible for partial Customs exemptions and the zero-rating of Value-Added Tax on pharmaceuticals.

- Investment Agreements

Investors who have made investment agreements with the Guyana Office for Investment (Go-Invest) may be eligible for tax exemptions including but not limited to the zero-rating of Value-Added Tax, and the exemption from the payment of Excise Tax.

Large scale foreign investor companies may be subject to tax holidays, and/or Corporation Tax at a rate of 25%, instead of the usual 40% tax levied on commercial companies.

- Government Contracts

Contractors operating pursuant to government contracts may be eligible for exemptions from Customs Duty, the zero-rating of Value-Added Tax and exemption from the payment of Excise Tax.

- Government Departments & Ministries

All Ministries and Government Departments are granted tax exemptions from the payment of Customs Duty, Excise Tax, and Value-Added Tax.

- Diplomats

Diplomatic missions and diplomats may apply and be eligible for exemptions from Excise Tax and zero-rating of Value-Added Tax.

4. Are withholding taxes relevant to individuals and, if so, how, in what circumstances and at what rates do they apply?

For non-resident individuals whose income is derived in Guyana, a withholding tax (WHT) is payable on a gross distribution or payment made directly or via an agent where the individual is not engaged in trade or business in Guyana. For example, a withholding tax is payable in respect of rents paid to a non-resident landlord, payments to a non-non-resident for tangible or intangible assets for use in Guyana, management charges paid to non-residents, payment for technical and professional services to a non-resident, and franchise fees to a non-resident.

The rates applicable to such payments are as follows:

Recipient	**WHT (%)**		
	Dividends	**Interest**	**Royalties**
Non-treaty	20	20	20
Treaty			
Canada	15	25 Here, the lower statutory rate of 20% would apply	10
United Kingdom	10	15	1
CARICOM	0	15	15

For all individuals (resident and non-resident) withholding tax is payable at a rate of 20% on (i) interest earned on savings accounts held at commercial banks or other financial institutions and loans secured by bonds and similar interests; and (ii) every discount earned on treasury bills by the discounting person, whether before or after maturity.

Guyana charges a gold / diamond withholding tax.

In the case of gold, on a sliding scale, as follows :

	WHT % of gross proceeds
Per ounce of gold, > US$1,100 or its equivalent in another currency	2
Per ounce of gold, US$1,100 ≥ US$1,300 or its equivalent in another currency	2.5
Per ounce of gold, US$1,300 ≥ US$1,600 or its equivalent in another currency	3
Per ounce of gold, < US$1,600 or its equivalent in another currency	3.5

In the case of diamonds, WHT at a rate of 2% is applied to any value ascribed by the Central authority on the amount declared by any individual, whether owned wholly or jointly with another in partnership or otherwise.

A withholding tax return is required to be submitted by tax withholders, namely, any tenant, agent of a landlord (power of attorney, property manager, bank, trust, etc.) who collects rent on behalf of a non-resident landlord, any person renting tangible and intangible assets for use in Guyana from a non-resident, a franchise holder, a person paying management charges to a non-resident, a person making payment for technical and professional services to a non-resident, financial institution authorised to pay interest on any interest-bearing account, any other person who makes a distribution to a non-resident, a person who pays a contractor directly or indirectly an excess of GY$500,000 (US$2,404.08 or GB£1,902.44) for supplying labour or hiring equipment, and an individual involved in gold or diamond mining.

The withholding tax is due on the 14th day of each month; however, accompanying such payment must be a withholding tax return outlining the details of all payments and distributions made to non-residents and taxes withheld.

5. How does the jurisdiction approach the elimination of double taxation for individuals who would otherwise be taxed in the jurisdiction and in another jurisdiction?

Guyana is not a signatory to the Multilateral Convention to Implement Tax Treaty-Related Measures.[2] However, Guyana has double taxation treaties with Canada, Caribbean member states and the United Kingdom. Double tax relief, therefore, applies to the said countries.

The relief is applied in the form of what is termed a foreign tax (tax charged by a treaty country) credit. The credit is allowed concerning income arising in the said treaty country with respect to income taxes of Guyana residents. Such credit cannot exceed the total income tax payable under Guyana tax law.

The credit is not applied as a deduction for foreign tax paid. If the income tax chargeable depends on the amount received in Guyana, chargeable income is adjusted upward to include the foreign tax payable on the income. Regarding dividend income, where no direct taxes or deductions apply, chargeable income is increased by the amount of the tax not so chargeable. Such an increase is considered in determining the amount of credit applicable. Also, deductions are made for the amount by which the foreign tax exceeds the credit.

For other countries with a similar tax system and legislation, unilateral relief is available. In practice, is usually (hence not guaranteed) 50% of the relief available to a treaty country is granted in relation to British Commonwealth countries, and 25% of said relief is granted in relation to other countries.

Footnote(s):

[2] See https://oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps.htm and https://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf

6. Is there a wealth tax and, if so, which factors bring an individual within the scope of that tax, at what rate or rates is it charged, and when must tax returns be submitted and tax paid?

Guyana has no net wealth or worth tax.

7. Is tax charged on death or on gifts by individuals and, if so, which factors cause the tax to apply, when must a tax return be submitted, and at what rate, by whom and when must the tax be paid?

Guyana does not provide for inheritance, estate, or gift taxes.

However, there is a processing fee applicable upon death upon the value of the deceased person's assets (minus funeral expenses and debts or encumbrances wholly for the deceased's own use and benefit) in Guyana as of the date of death. The individual making a declaration of deceased person's assets is required to submit an Estate of Deceased Person's Declaration and Inventory to the revenue authority. Where the value of the assets is equal to or less than $100,000.00 (US$480.82 or GB£380.49), there is no processing fee; where the value of the assets exceeds $100,000.00, the fee is half of one per cent of the gross value of the deceased person's property.

8. Are tax reliefs available on gifts (either during the donor's lifetime or on death) to a spouse, civil partner, or to any other relation, or of particular kinds of assets (eg business or agricultural assets), and how do any such reliefs apply?

There are no tax reliefs on gifts either during the donor's lifetime or on death.

No taxes are levied on gifts of real or personal property transferred during the lifetime of the donor.

9. Do the tax laws encourage gifts (either during the donor's lifetime or on death) to a charity, public foundation or similar entity, and how do the relevant tax rules apply?

Yes. Any change in property ownership related to the acquisition or disposal of property concerning any non-profit institution or endowment (ecclesiastical, charitable, educational, or public natured (governmental, national or international) is exempt from capital gain or property tax.

Further, an income and corporation tax exemption applies to income arising from any educational endowment such as a scholarship, exhibition, or bursary to a person receiving full-time instruction at a university, college, school, or other educational establishment and national or international institution, or organisation.

10. How is real property situated in the jurisdiction taxed, in particular where it is owned by an individual who has no connection with the jurisdiction other than ownership of property there?

At the end of each assessment year, 31 December (the valuation date), net property is subject to tax. However, upon an application, permission has been granted for a different valuation date.

Net property refers to an individual's (non-corporate legal person) aggregate property minus debts owed. Such debts do not include debts (a) incurred without consideration, (b) not wholly for the person's benefit, (c) carrying a right of reimbursement (which is obtainable), (d) charged on excluded property (property outside of Guyana, government issues security holdings to non-residents in the assessment year, property for an ecclesiastical/charitable/education institution/endowment), and (e) incurred outside of Guyana, not payable in Guyana or related to property situated outside Guyana.

Property includes a life interest, sole beneficial interest in trust property, a portion of beneficial interest in a trust for the benefit of several beneficiaries who receive a yearly benefit, a trusteeship in a trust in which all or some of the beneficiaries receive no yearly benefit, and a trusteeship in a public charactered trust.

Resident and non-resident individuals who had net property situated in Guyana valued at GY$40,000,000.00 (US$192,326.19 and GB£152,195.42) or more in the year preceding the assessment year must file a true and correct return by 30 April. If absent from Guyana, such a person must give the name and address of an agent residing in the country. Tax is applied as follows:

Individual net property (valued in GY$)	**Property tax rate (%)**
On the first 40 million	0
On every dollar of the next 20 million	½
On every dollar of the remainder	¾

11. Does your jurisdiction have any specific rules in relation to the taxation of digital assets?

Guyana does not provide for a digital asset tax. There have been no public discussions concerning such a tax. However, there have been discussions about the recognition and use of digital assets by the government and private persons. The National Payment Systems Act (NPSA), passed in August 2018, stipulates that payment service providers can issue electronic money, provided that in the application for a payment service licence, the proposed provider satisfies special conditions in section 49(1) (a)-(d). The Bank of Guyana has also drafted a regulation on electronic money under the said provision of the NPSA. Developments in Guyana's use of digital assets are, therefore, in train.

12. Are taxes other than those described above imposed on individuals and, if so, how do they apply?

Yes. Other taxes are imposed on individuals.

- Compulsory National Insurance Scheme (NIS) contribution – There is no exemption for any employee or employer. The employer is to deduct the contribution, being 5.6% for the employee and 8.4% for the employer of insurable earnings, with an insurable ceiling of GY$280,000 (US$1,342.93 or GB£1,064.37) monthly. The NIS is to be paid on the 15th day of the following month.
- Consumption Tax / Value-added tax (VAT) – A registered person is charged VAT on the taxable supply of goods and services within Guyana at rates of 14% or 0%. A person is required to register and account for VAT when they are trading in Guyana, and their taxable supplies exceed GY$15 million (US$72,122.32 or GB£57, 073.28).

Examples of zero-rated supplies are goods for export; electricity, which Guyana Power and Light supplies; and water, which Guyana Water Incorporated supplies.

Educational services, residential rent and financial services are exempt.

- Excise tax – imposed on specific imported or home-produced products, for example, alcoholic beverages, motor vehicles and petroleum products.
- Stamy duty – applied at various rates to several instruments. For example, documents initiating a claim, statutory declarations, deeds of conveyance, mortgages, share transfers, and powers of attorney.

13. Is there an advantageous tax regime for individuals who have recently arrived in or are only partially connected with the jurisdiction?

Advantages for individuals recently arriving in or only partially connected to the jurisdiction are the double tax and the unilateral reliefs available (see question 4 above).

However, there are various incentives associated with the mining, tourism and other sectors, and are relevant where individuals want to start business in such sectors. However, to gain such incentives, such an individual may have to start a company. The various incentives include:

a. Customs duty and VAT exemption on most plant, machinery, equipment, appliances and furnishings;

For example, this applies to (i) investors in new hotels, guest houses, and inns in regions 2-6, including for use in sports and motor vehicles, and (ii) machinery and equipment for mining and associated hinterland travel.

b. Customs duty and VAT exemption on raw materials and packaging materials used in the production of goods by manufacturers and small businesses;

For example, individuals in the fishing industry with fishing licenses are eligible for a customs duty exemption on spares, packaging materials, fishing nets, and floats. Further, where one has a small fishing establishment, with evidence of operation they are eligible for a zero rating of the VAT on fishing nets, floats, rope, twine, cordage, hooks and sheet lead.

c. Excise tax exemption;

For example, investors in new hotels, guest houses and inns, further to an investment agreement with the government, can get an excise exemption on the value of each motor vehicle. Also, in relation to the mining industry, the excise tax on fuel has been removed.

d. Unlimited carryover of losses from previous years;
e. Accelerated depreciation on plant and equipment;
f. Full and unrestricted repatriation of capital, profits, and dividends;
g. Tax deduction for scientific research expenses;
h. Initial and annual allowances; and
i. Tax holidays.

For example, tax holidays are granted in respect of pioneering activities, that is, to companies whose trade or business are wholly of a developmental and risk-bearing nature and likely to be instrumental to the development of the resources of and beneficial to Guyana.

14. What steps might an individual be advised to consider before establishing residence in (or becoming otherwise connected for tax purposes with) the jurisdiction?

In considering moving to Guyana, persons should:

a. Know the immigration policies, permissions and requirements for living and working in Guyana, including whether a work permit is required plus the requirements for obtaining the same, duration of validity and ease of renewal (see the Ministry of Home Affairs website, https://moha.gov.gy, and the requirements for a digital identity card.

At present, Caricom nationals do not require a work permit but need a Caricom Skills certificate. See https://www.csmeonline.org/en/get-my-skills-certificate/. Caricom nationals should, therefore, investigate how to obtain such a certificate with the relevant ministry in their jurisdiction (usually either the Ministry of Labour or the Ministry of Foreign Affairs). For Guyana, the relevant ministry is the Ministry of Foreign Affairs: see https://www.minfor.gov.gy/node/328 .

b. Investigate the costs and the practicalities involved in buying and renting housing, including necessary amenities (such as a generator).
c. Research the logistics and costs of doing business (including starting a company and a partnership, making and obtaining investments, and the local content law).
d. Be informed about all the necessary elements for daily living, including preferred and general comforts: starting a bank account, data services, etc.
e. Be well-informed about the applicable taxes in Guyana versus other jurisdictions to which they are connected, and weigh and compare the advantages and disadvantages associated with each jurisdiction.

15. Once an individual has left (and is no longer connected for tax purposes with) the jurisdiction, does the jurisdiction charge any form of exit tax or retain taxing rights over the individual's directly held assets or structures which they created or have an interest in?

N/A

16. What are the main rules of succession, and what are the scope and effect of any rules of

forced heirship?

Guyana's rules of succession apply to the estate of an individual, minus debts, funeral expenses, and just expenses.

An individual can freely devise and bequeath property via will or testament subject to the rule against perpetuities. The said rule prevents the disposal of property, the rents or profits of which accumulate:

i. for a term longer than either the life of the devisee, 21 years from the death of the devisee, the minority of anyone living (including a person, if of full age, would be entitled under the will or other document), or child in the womb at the time of the devisee's death. Any accumulation in excess must go to the person who would be entitled but for the violation of the rule against perpetuities; and
ii. wholly or partially, for the purchase of land only, for a period longer than the minority of anyone who, if of full age, would be entitled to receive the rents or profits under the will or other document.

Further, individuals, via their will/ testament, must provide reasonable financial provisions for a spouse (including a common law spouse of a 5 years or more union), a blood child or child of the marriage, or another person whom they regularly maintain wholly or partly (without valuable consideration) by providing substantially for their reasonable needs (altogether, "dependents"). Reasonable financial provision refers to what is appropriate in all circumstances, for a spouse, whether or not maintenance is required, and for any other person, what is reasonable maintenance. Failing such provision, a dependent may apply for such financial provision from the deceased person's estate.

Where property is not devised or bequeathed by will, the rules of intestacy apply. Under the rules of intestate succession, property is inherited as follows:

Descendants and Relatives of the deceased/intestate	Share of the deceased/intestates' estate
Widow or Widower (includes a common law union five years or more) and children (including those born out of wedlock and adopted)/ grandchildren from deceased child. – Widow(er) – Children/ with grandchildren of a deceased child taking in equal shares. NB: where the child received an inter-vivos estate settlement or advance, the said child must bring the estate or amount advanced into hotchpot or so much of the same to make the estate of all the children equal or as near as possible to equality.	(33.33%) share In equal portions, the residual (66.67%) share
Widow/ Widower and no Children/ grandchildren	The whole (100%)
No Widow/ Widower but Children/ with grandchildren of a deceased child taking in equal shares.	The whole is divided equally.
No Widow or Widower and no children/ grandchildren from the deceased child; the whole estate shall be distributed among the next of Kin of the intestate, equal in degree, with their descendants taking per stirpes. Here, the degrees of kindred are reckoned by counting every generation from the intestate up to the common ancestor down to the person in question.	
2 parents (considered to be of the same degree)	The whole is divided equally
1 parent plus siblings (everyone including their representatives)	The whole is divided equally
No parent but siblings (everyone, including their representatives)	The whole is divided equally
No blood relatives at all.	The Crown receives the entire estate.

Restrictions to the disposal of property by intestacy, include, circumstances where the estate:

i. does not exceed GY$480 (US$2.31 or GB£1.83), the surviving spouse takes the whole estate; and
ii. exceeds GY$480 (US$2.31 or GB£1.83), whether there are descendants, the surviving spouse, without prejudice to their share, is entitled to GY$480 (US$2.31 or GB£1.83) as a just charge, which is deducted from the estate such that all the residue is treated as the whole estate.

Since December 2024, in the absence of a grant of letters of administration or probate, a surviving spouse or heir on intestacy may have access to GY$750,000.00 (US$3,606.12 of GB£2,853.66) from a financial institution, national insurance body or the State.

17. Is there a special regime for matrimonial property or the property of a civil partnership, and how does that regime affect succession?

The legal regime concerning matrimonial property applies to marriages occurring after 20 August 1904 and to immovable and movable property situated in Guyana. Regarding movable property, the husband and wife need to be domiciled or resident in Guyana. The regime recognises married couples and common law unions, being a single man or woman living together for not less than five years. Further, the regime applies whether parties to the marriage or civil law union are alive or deceased.

In respect of property held jointly in the names of a couple in a marriage or civil union, either party can freely dispose of their portion of such property. Concerning disputed property, including property only held in the name and/or under the control or possession of one spouse, the court may make orders recognising one spouse's beneficial interest (including awarding a sum representing the value of the property or in the case of money, the money to which the applicant spouse's interest relates) further to an application by one spouse and the representative of the deceased spouse's estate. The factors the court can consider in making such orders vary depending on the duration of cohabitation:

i. Less than 5 years, consider and quantify all the circumstances of the case to such extent and manner as is just, including the contribution made by each spouse to the marriage and welfare of the family, including looking after the home and caring for the family; and
ii. 5 years or more,
    i. Where the applicant spouse was not working, one-third; and
    ii. Where the applicant spouse was working, one-half

of property acquired during the marriage. Subject to the judge's discretion to vary such prescribed portion for good and sufficient reason.

Under the Family and Dependants Provisions Act, a spouse for whom reasonable financial provision has not been made by will or the law of intestacy may apply for financial provision.

The Married Persons (Property) Act impliedly refers to marriage and a common law union as a union between a man and wife. By the Civil Law Act, marriage and a common law union currently refer to the traditional common law definition of marriage, "the voluntary union of one man and one woman to the exclusion of all others," and restricts forbidden marriages under the common law.

However, in light of the progressive decision of *McEwan & Ors v The Attorney General of Guyana* [2018] CCJ 30 (AJ) 1, which deemed the law against cross-dressing unconstitutional because, among many things, it abrogated the constitutional right to equality before the law and protection against discrimination, a constitutional challenge to the implied statutory prohibition against same-sex marriage may succeed on similar and other grounds.

18. What factors cause the succession law of the jurisdiction to apply on the death of an individual?

The law of succession applies to persons domiciled in Guyana at the time of death, immovable property situated in Guyana, and movable property and effects wherever situated. A person is deemed to have been domiciled in Guyana where he does not live in another country, capable of independent domicile (an adult of sound mind), and lives in Guyana with the intention of living indefinitely.

19. How does the jurisdiction deal with conflict between its succession laws and those of another jurisdiction with which the deceased was connected or in which the deceased owned property?

General conflict of laws principles apply, in that for immovable property, the law of the country in which the property is situated governs, and for movable property, the law of the country where the deceased was domiciled governs. The law of the country where the personal representative obtained his power to Act governs the administration of the deceased estate.

Probates or letters of administration granted by a commonwealth court or Scotland court are recognised in the Guyana courts upon an application to seal the same, subject to payment of either the duty in relation to the value of the estate and effects for which probate is granted in Guyana; or the security sufficient to cover the amount of property in Guyana to which the letters of administration relate.

20. In what circumstances should an individual make a Will, what are the consequences of dying without having made a Will, and what are the formal requirements for making a Will?

Generally, all individuals should have a last will and testament, particularly where one wants to exercise some freedom in how their property is disposed of. An individual should make a will satisfying the requirements in Guyana law whenever they are domiciled in Guyana and have substantial or most of their property situated there. Where an individual is only connected to Guyana via real property owned in the jurisdiction, a will satisfying the requirements of their domicile, if a commonwealth country, is sufficient. Where the individual is from a non-Commonwealth country, the individual should ensure that their last will and testament satisfies the requirements of Guyana law. If the requirements in their country contradict such that a will following the requirements of Guyana law conflicts with the country of domicile, a codicil satisfying the requirements of Guyana law and dealing with property in Guyana only is appropriate.

The requirements for a valid will in Guyana are as follows: (i) the will must be in writing; (ii) signed at the foot or end by the testator, or signed by another in the testator's presence and by his direction; (ii) the testator's signature must be made in the presence of or acknowledged by two more witnesses present at the same time with the testator, but no form of attestation is required.

An individual must have the capacity to make a will at the time of creating the same. One has the capacity to understand the nature of the acts in the will and their effects, including the extent of property being disposed of and the manner of disposal. See the recent decision dated 15 December 2023 in the Caribbean Court of Just explaining the validity of a will and testamentary capacity: *Persaud v Mangroo, Rosenberg & Mulchand* [2023] CCJ 16 (AJ) GY[1].

As to the consequences of dying without a will, see response to question 16 above.

Footnote(s):

3
https://www.kaieteurnewsonline.com/2023/12/19/ccj-settles-dispute-over-validity-of-guyanese-businessmans-will/

21. How is the estate of a deceased individual administered and who is responsible for collecting in assets, paying debts, and distributing to beneficiaries?

The personal representative of the deceased individual administers their estate, including collecting assets, paying debts and distributing to beneficiaries. Where the individual left a will appointing an executor, it is the executor, provided they are not dead, insolvent, absent from Guyana and unrepresented, or otherwise unwilling or unable to act or removed for just cause. In every other scenario, an administrator is appointed by the court further to an application with an inventory of the estate property. Such an administrator may be a person claiming a creditor of the deceased person, or a person claiming to be a beneficiary under the will or via the rules of intestacy.

22. Do the laws of your jurisdiction allow individuals to create trusts, private foundations, family companies, family partnerships or similar structures to hold, administer and regulate succession to private family wealth and, if so, which structures are most commonly or advantageously used?

Yes. The jurisdiction allows for the creation of trusts (which must be expressed, written, trusts where the same deals with immovable property (land)).

The trust law in force is very dated and relates to the UK Trustee Act of 1893, which was received into Guyana law in 1917.

Family members can also form partnerships and private limited liability companies to their advantage. There is no provision for limited liability partnerships. A family private limited liability company may, therefore, be most advantageous. Nevertheless, in conjunction with limited liability companies, persons should also utilise trusts.

23. How are these structures constituted and what are the main rules that govern them?

There are no legislative provisions with specific formalities concerning the constitution of a trust, except that it must be in writing in the case of immovable property (land) signed by the grantor or his legally authorised representative, and there are no equitable interests in land. A trust is created by a declaration of trust and a trust deed. The deed should be notarially executed or signed, witnessed by at least two subscribing witnesses, sealed and delivered. The deed should be recorded with the Deed Registry located at the Guyana Supreme Court, subject to affidavit proof by at least one subscribing witness that the deed was duly signed and executed, and the payment of stamp duty and the registrar's fees.

A company is incorporated under the Companies Act of Guyana by: (i) completing the prescribed registration form plus supporting forms, accessible via the Deed and Commercial Registries Authority website (https://dcra.gov.gy) with the company name, business activity, and beneficiaries' and directors' information (including address confirmation via a bank reference, notarised copy of foreign passport for non-residents and non-citizens, English translated passport certified by a notary, and any other document certified in English and proving identity/ registered address); and (ii) submitting the registration and other relevant forms to the commercial registry and paying the prescribed fee.

A partnership is created by express or implied agreement between the partners.

24. What are the registration requirements for these structures and what information needs to be made available to the relevant authorities? To what extent is that information publicly available?

See the answer to question 22 above.

Concerning guidance on partnership formation, consult the Partnership Act, which is available on the Laws of Guyana website, https://www.mola.gov.gy/laws-of-guyana , and an Attorney-at-law.

The confidentiality of information submitted to the Deeds and Commercial registry, including ultimate beneficial interests in trusts, companies and assets such as residential property, is governed by the Guyana Data Protection Act, which is not yet operational. The Act shields the disclosure of personal information by requiring consent for disclosure to third parties.

25. How are such structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

See the answers to questions 2 and 10 above. Property for property tax purposes includes trusts property (including settled property) and applies to trustees, settlors and beneficiaries. Capital gain tax, however, does not apply to the transfer of trust rights.

Directors are taxed on their income further to the guidance set out under questions 1-4.

26. Are foreign trusts, private foundations, etc recognised?

Private trusts and foundations are not formally recognised by any legislation. However, they are generally recognised, provided they do not conflict with Guyana law. See question 22. However, note that trust law in Guyana concerns the English common law for movable property, and the English common law generally does not apply to immovable property, such that any declaration, creation or assignment of any trust related to immovable property is generally (there may be equitable remedies) not enforceable unless the agreement, memo or note regarding the same is in writing and signed by the party to be charged (the grantor) or his legally authorised representative.

27. How are such foreign structures and their settlors, founders, trustees, directors and beneficiaries treated for tax purposes?

See question 25.

28. To what extent can trusts, private foundations, etc be used to shelter assets from the creditors of a settlor or beneficiary of the structure?

Trust property held by an insolvent in trust for another is not part of the pool of property divisible among creditors. In relation to immovable property (land), Guyana does not recognise equitable interests arising through implied trusts (constructive trusts or resulting trusts), as only full ownership of such property is recognised: see recent CCJ decision Prashad v Persaud et al [2022] CCJ 5 (AJ) GY delivered 18 February 2022. Without more, therefore, the protection of immovable property (land), unlike the case for movable property, concerning fraudulent transfers to another (an implied trust in the name of the insolvent) to shield the same from creditors is not very robust. Arguably, a liquidator may recover immovable property (in an implied trust) in the name of the insolvent via equitable remedies; however, this aspect of the law is still under development.

29. What provision can be made to hold and manage assets for minor children and grandchildren?

Yes, through the creation of a trust, which does not violate the rule against perpetuities explained in question 16,22,23 above.

30. Are individuals advised to create documents or take other steps in view of their possible mental incapacity and, if so, what are the main features of the advisable arrangements?

Guyana does not have an enduring power of attorney regime. A power of attorney expires in the event of mental incapacity. The creation of a trust, however, can guard against the complications associated with mental incapacity, provided that there are provisions giving the trustee power in the event of mental incapacity to make decisions concerning the individual's care plan, including restrictions on nursing homes and paying medical bills and other costs, making investments and maintaining children, wife and others.

Additionally, in the event of mental incapacity, it is also important to create a last will and testament to dispose of property as desired.

31. What forms of charitable trust, charitable company, or philanthropic foundation are commonly established by individuals, and how is this done?

- Charitable trust – created by trust deed in the manner other trusts are established. See question 22 above.
- Charitable company – can be created through the formation of a company limited by guarantee without share capital. See question 22 above on how to start a company.
- Other philanthropic entities – May be formed through the creation of a cooperative society or friendly society, which, upon registration, exist as body corporates.

The cooperative society is formed by submitting an (i) application to the Commissioner of Cooperative Development (part of the Ministry of Labour) signed by at least 7 members being at least 16 years of age and domiciled or working in the area of the society's operation, or a duly authorised member of a registered society and all other non-registered members satisfying the same aforesaid requirements; (ii) the rules of the society; and (iii) the prescribed fee plus any other information the commissioner may require.

A friendly society is formed via a written application to the Registrar of Friendly Society (within the Ministry of Labour) signed by at least 7 members, including the secretary, with copies of the rules and a list of officer names, in duplicate, and any applicable registration fees. Thereafter, a copy of the friendly society's rules signed by the Registrar must be recorded with the Deeds Registry no later than within one month from the Registrar's return of the same.

32. What is the jurisdiction's approach to information sharing with other jurisdictions?

The country is very open to sharing information with foreign jurisdictions, particularly with other Caribbean countries. For example, Guyana, in January 2016, joined the Global Forum, which plays a crucial role in the automatic exchange of information under the OECD standard on the automatic exchange of financial account information and to provide help to developing countries. Apart from the Double taxation treaties, which inherently involve information sharing, Guyana is also part of the FATCA agreement, which is lauded as one of the most effective ways to combat tax arbitrage through information exchange between countries and tax authorities. The Anti-Money Laundering and Countering the Financing of Terrorism Act makes legislative provisions for international cooperation, including information sharing by a Guyanese court of competent jurisdiction with the court or other competent authority of another state.

33. What important legislative changes do you anticipate so far as they affect your advice to private clients?

The government has been rapidly passing new legislation and reviewing and amending old legislation. Private clients should, therefore, constantly check proposed and enacted changes in the upcoming year. Given the rapid developments, clients should view the Guyana Parliament website (https://www.parliament.gov.gy) alongside the Official Gazette of Guyana website (https://officialgazette.gov.gy/index.php/10-publications) both sites are being updated constantly.

The parliamentary year usually starts in January and ends in December. However, there is no specific start and end date; the Parliament makes its own rules for its day-to-day operations. Very useful are the Order Papers of the Parliament sittings, which list agenda matters, including Bills in consideration.

Useful to note is that the parliamentary term is five years, and the current parliament is in its 4th year. Its term expires in 2025, the year of the next election under the Constitution (provided the same is not extended due to war). However, there is no fixed election date, and the President may call the election at any time, provided parliament is not extended by more than five years. The current government, the People's Progressive Party/ Civic, holds a one-seat majority in Parliament.

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