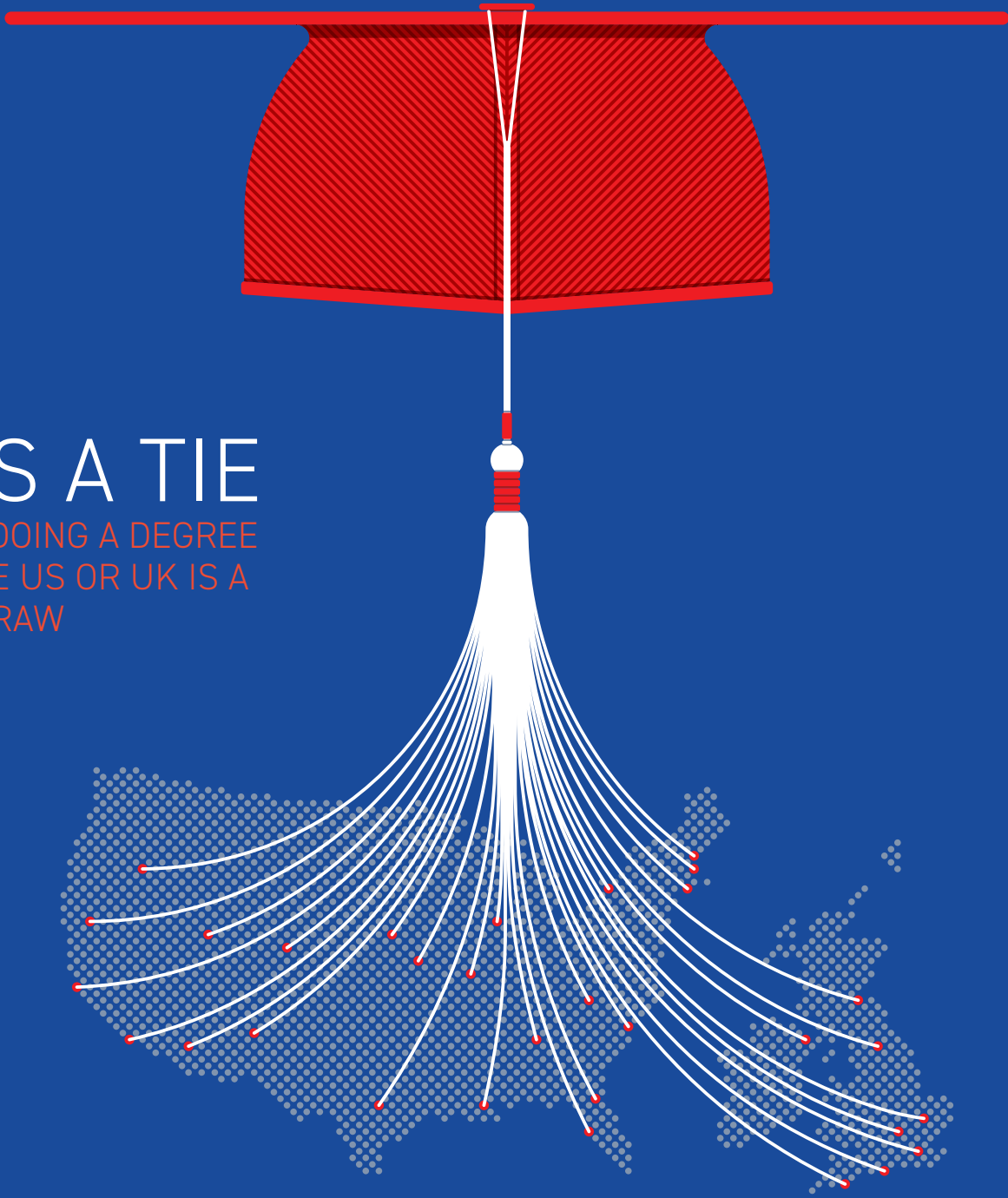


PENNINGTONS MANCHES COOPER  
PUTS THE CHANGING WORLD OF WEALTH IN

# context

ISSUE 01 | WINTER 2019/20



## IT'S A TIE

WHY DOING A DEGREE  
IN THE US OR UK IS A  
BIG DRAW

THE  
UNITED  
ISSUE

FEAT. RELOCATION  
REQUIREMENTS  
& IMPACT INVESTING



# THE UNITED ISSUE

**WELCOME** to Penningtons Manches Cooper's first issue of *Context*.

*Context* is a little different to our usual publications. Don't expect detailed commentary on the law (but don't hesitate to contact us if you'd like more details on any of the points raised!). Instead, we explore global issues which often raise interesting challenges for us when advising families, and share our take on some of the trends we see shaping the future of private wealth.

The speed of change in today's economic, political and therefore legal world is breathtaking compared to a generation ago. As a result, it pays to keep an eye on the big picture.

Our inaugural theme explores ever-deepening links between the US and UK. From the 'fairy tale' of an US actress becoming a duchess, to two of the most controversial leaders either country has seen forming something of a 'bromance' in the face of Brexit; in one form or another, the news this year has been full of the US-UK special relationship.

Closer ties at a macroeconomic level will mean more individuals and their families having some sort of connection with both countries – often with unexpected consequences.

We hope you find the following articles informative and thought-provoking, and welcome any comments or questions.



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## DRESSED FOR SUCCESSION

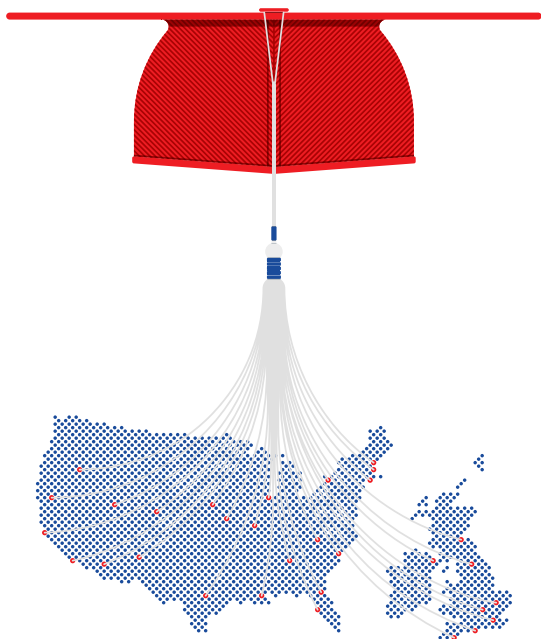
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CONTEXT is a Penningtons Manches Cooper publication.

Publishing services provided by Grist, 36 Great Pulteney Street, Soho, London W1F 9NS

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COVER IMAGE: PÂTÉ / Printed on 100% post-consumer recycled paper

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# NEWS, VIEWS and ASSORTED INFORMATION

## KEEP UP TO DATE

### Entrepreneurs' relief

It is important to plan ahead to secure this potentially valuable CGT relief.

### Digital legacy

Protecting your online assets after death is becoming increasingly complex.

### OTS inheritance tax review

Recommendations could significantly alter parts of the IHT and CGT regime if introduced.




### Protecting overseas assets

Many people neglect to set up lasting powers of attorney which allow their attorneys to deal with assets abroad.

### An alternative to trusts?

Increases in the complexity and cost of trusts are leading to alternative models such as family investment companies.

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 Penningtonslaw

## MYTH-BUSTERS

### Common myth #1

#### I'm married, so I don't need a Will

"We know lots of people put it off, but everyone should consider having a Will to ensure that their wishes are clearly defined and that any assets pass on to the people they want to benefit. If you die without a Will ('intestate'), your spouse's entitlement under current rules, for example where there are children, only includes the first £250,000 of the estate and all personal items, together with a life interest in half of the remaining estate. This may leave your spouse in potential financial difficulty.

"Of course, things can be even more complicated if your spouse dies at the same time as you, in an accident for example. By making a Will you can secure the succession of a family business, make the most of various tax reliefs and exemptions, appoint guardians for your children, make gifts to particular people and/or charities and generally give yourself the peace of mind that, in the event of your death, you have provided for your loved ones."

**Clare Archer, Partner and Head of London Private Client Team**



## Expat Americans in the legislative spotlight

Americans living abroad are once again the focus of US tax authorities as the latest elements of the Foreign Account Tax Compliance Act (Fatca) come into force. From the end of 2019, all expatriate US persons must provide their US tax identification numbers to their local banks or risk having their accounts either closed or frozen.

Fatca originally came into effect five years ago, requiring all financial institutions outside the US to identify and report on their US clients to the US tax authorities. The intention of the legislation is to prevent US taxpayers from evading US income tax, but the administrative burden it places on foreign banks is considerable. In 2017, the US Internal Revenue Service (IRS) gave banks a three-year grace period during which they only had to share a US client's date of birth and did not have to give tax identification numbers if they didn't have them. This finishes at the end of 2019, and banks that still do not know the tax numbers of their US clients need to move quickly to get that information to avoid having to freeze or close accounts.

Meanwhile, there is good legislative news for expat Americans: Democratic congresswoman Carolyn Maloney has recently tabled two tax bills to try and provide Americans abroad with important relief from Fatca. Her Overseas Americans Financial Access Act will require the IRS to exclude US citizens from Fatca if they live in countries where they qualify as bona fide residents, while the Commission on Americans Living Overseas Act of 2019 will create a bipartisan committee to examine the concerns of Americans living abroad.

Bona fide residency applies when a person stays in a foreign country that has an income tax treaty with the US for at least a full tax year. The first bill will also make it easier to open and maintain foreign private bank accounts, if Congress supports the proposed legislation.

**PERSONAL PASSIONS**  
**Sarah Allan**

**Not only a leading adviser to owners and managers of yachts and superyachts, Sarah is also an accomplished sailor and yachtmaster.**

Sarah Allan, a Partner at Penningtons Manches Cooper, grew up by the sea in both the US and the UK and comes from a family of sailors. From a young age she knew she wanted to race yachts. Aged 18, before university, she sailed across the Atlantic and spent a lot of time working on yachts, before going on to compete in national, European and international competitions. She was part of the crew that won the World Championships in 2008 and came fourth helming her own boat in 2010.



Credit: Carlo Borlenghi

At the same time, Sarah studied politics at university before going on to study law, qualifying at Thomas Cooper in 2003 and pursuing a career in maritime law. In recent years she has focused her practice on yacht-related matters, advising owners, managers and yards on their contracts and if they are faced with claims or disputes. She helps clients buy, sell, build, refit, manage and charter yachts and superyachts.

“Because I’m passionate about sailing, I’m also passionate about people who are passionate about yachting,” says Sarah. “It’s very important to me that I look after their interests in the best possible way, because I want them to have the best experience possible when they are on their boat. I want them to enjoy the experience of yachting, whether for sport or leisure.”

**“Because I’m passionate about sailing, I’m also passionate about people who are passionate about yachting.”**

Whether taking evidence from crew members following an accident or getting to crew a client’s boat in a superyacht regatta, sharing a passion with her clients helps Sarah understand their priorities and concerns. “I know so many people in this industry because many of them started out racing,” she says. “We have a lot in common, so there is an immediate understanding and connection.”

  
**180.5 metres**  
 OR 593 FEET = THE LENGTH OF THE WORLD’S LARGEST YACHT

**In the press...**



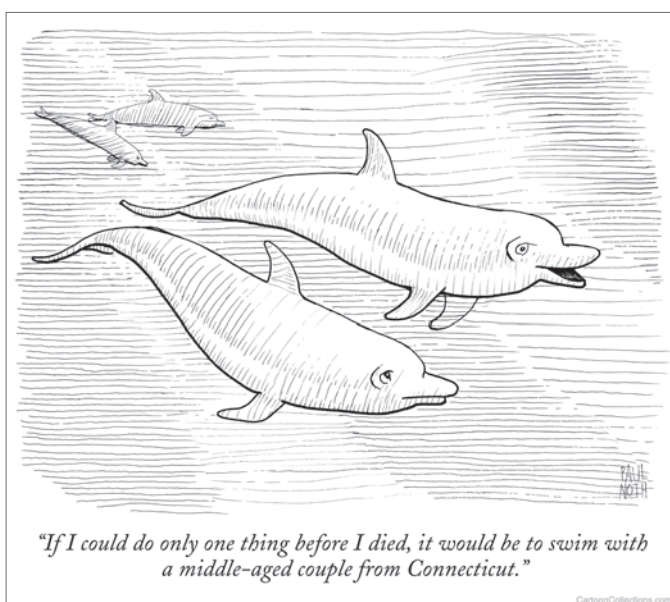
*“Wealthy international couples with complicated circumstances often hold out-of-court divorce settlement talks in London in part because of the legal system’s privacy protections.”*

**James Stewart**, International Family Lawyer at Penningtons Manches Cooper, quoted in *The New York Times*

**46.8 million**  
 number of millionaires worldwide (up 1.1 million on 2018)

# upfront

**10%** In 2019, for the first time, more members of the world’s richest 10% are based in China than in the US





Crossing the pond and what it means  
for the next generation

# Dressed for succession

An increasing number of families are dividing their time between London and the US or choosing to relocate across the Atlantic. Here we highlight some of the key issues that need to be considered ahead of a move across the pond.

BY CLAIRE COE SMITH

**T**he number of Americans coming to live and work in London continues to increase, with Americans now second only to the Chinese as the biggest overseas buyers of prime central London residential property. Driven in part by the strengthening of the dollar against the pound and the ongoing attraction of investing in London property, US buyers accounted for 6% of all purchasers of high-end property in the first half of 2019, with the proportion of homes sold to them doubling in the last year, according to estate agent Knight Frank.

At the same time, a growing number of Brits are making their way across the Atlantic. America is now second only to Australia as the most popular country for Brits settling abroad. California, in particular, is becoming a destination of choice: it is estimated that there are 200,000 British citizens living in Los Angeles alone, with many more moving to San Francisco and its surrounds to work in the tech industry. Former Deputy Prime Minister and Leader of the Liberal Democrats, Nick Clegg, is a case in point, having recently upped sticks to California to work as Head of Global Affairs and Communications at Facebook.

Anna Worwood, Family Partner at Penningtons Manches Cooper, says: “We have a large number of clients whose children go to university in the US, and that looks set to increase. Once UK universities started charging tuition fees, it raised a question of value for money. Parents able to pay high fees are attracted by the more rounded nature of the US university system where most students select from a broad range of subjects before deciding on their ‘major’.”

## Tax planning

With transatlantic relocation comes a raft of private wealth issues for individuals to consider. The differences in the two tax systems can present particular issues, according to Elizabeth Nicholas, Private Client Senior Associate at Penningtons Manches Cooper. She says: “Generally speaking, there is a lack of understanding about how tax and succession planning work in the UK and the US. If a family moves to the US from the UK, they will quite often retain assets here as well as acquiring new assets in America. People often overlook the fact that inheritance tax still applies in the UK on those assets; if assets are kept here for investment purposes, they do not escape the UK tax net.”

A plan that works in one place might create real problems in another. “It’s not just about what you might have personally, but also the structures that you are involved with, whether as a company director, as a trustee or a beneficiary, as there can be significant tax implications if you move,” says Nicholas.

**“IF A FAMILY MOVES TO THE US FROM THE UK, THEY WILL QUITE OFTEN RETAIN ASSETS HERE ... AND OVERLOOK THE FACT THAT INHERITANCE TAX STILL APPLIES IN THE UK ON THOSE ASSETS.”**

### Family law issues

Further complications can arise in the event of a marriage breakdown, with many differences between approaches to family law in the US and the UK. These can come into play for families who cross the Atlantic in either direction.

California was the first state to introduce a 'no fault' policy in divorce proceedings, not taking either party's behaviour into account. Today it is possible to obtain a 'no fault' divorce in every US state. New legislation is currently passing through the UK Parliament to introduce a similar concept of 'no fault' divorce to the English system. Under the current UK system one party must petition for divorce and, in so doing, show evidence of the irretrievable breakdown of the marriage based on adultery, unreasonable behaviour or a lengthy separation.

Worwood says: "The concept of 'conscious uncoupling' that Gwyneth Paltrow talked about when she split from her ex-husband Chris Martin is not so far from how things are done in the States, where you can literally cite irreconcilable differences as a reason for a divorce, and there is no blame game."

That is not the only difference in how things are done in the US. In English family courts, proceedings are usually held in private, and many published judgments are also anonymised to protect the parties or their children. This offers participants a level of privacy that is difficult to obtain in the US, where most family disputes are dealt with in open court. Worwood adds: "In California and New York, in common with many US states, everything is dealt with in open court. This degree of exposure is something that many wealthy and well-known individuals are keen to avoid."

Those that have entered into prenuptial agreements in one jurisdiction before relocating across the pond would be well advised to have that agreement revisited in the context of the local law. There can also be significant tax issues to take into account.

Furthermore, separated parents wishing to take children out of the UK must seek permission from the other parent to relocate.

Worwood explains further: "In order to make a successful Leave to Remove application, you need to convince the English court that the move is in a child's best interests, and that they

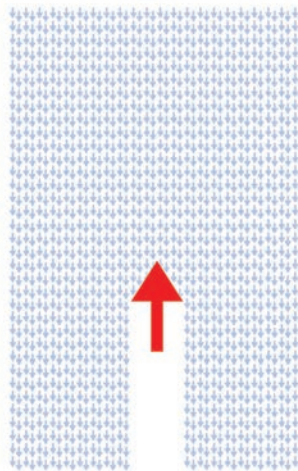
will be able to maintain a good relationship with the parent left behind. It's essential to put together a package to show all the benefits for the child of making the move."

### Succession planning - Wills and probate

Nicholas advises that you should consider having a Will in every country where you own physical property or significant assets, and also that you should look at updating your Will when you move country, acquire significant new assets or otherwise have a major change in circumstances.

Wealthy individuals in the US are often advised to create Revocable Living Trusts, which are essentially asset-holding structures that can act like a Will, but avoid the need for probate. This is because the probate process (dealing with the estate of someone who has died) can be slower and more expensive in the US than in the UK.

"YOU NEED TO CONVINCE  
THE ENGLISH COURT THAT THE  
CHILD IS GOING TO BE ABLE  
TO MAINTAIN A GOOD  
RELATIONSHIP WITH THE  
PARENT LEFT BEHIND."



Nicholas says: "Clients moving from the US to the UK often arrive with those structures in place and we have to analyse them from a UK tax perspective. Likewise, clients moving to the US from the UK might, on arrival, be advised to set up a Revocable Living Trust and this could trigger problems back in the UK."

### Immigration rules

On the face of it, the rising number of Americans moving to London is reflected in the UK Government's continued relaxation of the visa requirements for non-EU nationals.

In contrast, the US immigration authorities are becoming stricter, closely scrutinising their EB-5 immigration visa programme, which is a path to US permanent resident status based on investment and US job creation.

There are a number of other ways UK individuals can qualify for US visas without such investments which can also lead to permanent resident status. These include applying for O-1 Extraordinary Ability visas if they excel in the sciences, arts, business or athletics.

"Despite the relaxation of the UK immigration rules, navigating the system continues to present its challenges," says Hazar El-Chamaa, Immigration Partner at Penningtons Manches Cooper. "So it is important to review the immigration requirements carefully in advance of any decision to move your family. If possible you should think ahead to what the future may hold in terms of the education of your children, or where you or they may want to live in the future. For those applying for UK visas, a child is only dependent until the age of 18, so families need to make a separate application for a non-dependent child to stay on at school here or to move on to university."

Nita Upadhye, Managing Attorney at NNU Immigration in London, offers three tips to those looking to succeed with US immigration: "First, don't take short-cuts," she says. "Under this administration, the level of scrutiny of visa applications has hit another level, so it is important to dedicate the time and effort necessary to prepare a thorough, well-documented application."

She also advises applicants to be truthful and disclose any issues, such as criminal convictions or immigration violations from the past. The US does not recognise the UK






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**SAY WHAT?**

Just a few of the everyday words that can trip up the unaware...

*lift elevator*  
*pavement sidewalk*  
*flat apartment*  
*boot trunk*  
*braces suspenders*  
*fringe bangs*  
*ground floor first floor*  
*dummy pacifier*  
*coriander cilantro*  
*crisps chips*

---

Rehabilitation of Offenders Act, so any brush with the law is relevant however long ago it occurred, putting those with decades-old drug or alcohol offences at risk.

Finally, Upadhye says: “If you would like your children to have permanent resident status, bear in mind they are no longer eligible for dependent status after age 21 and would have to qualify for a US visa separately.”

A move to the other side of the Atlantic may be high on the agenda for a growing number of families, but a failure to consider some key legal crosswinds can make it far from plain sailing. 📧

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**How can we help?**

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Claire Coe Smith has written for *The Times*, *Financial Times* and *City A.M.*

TACTICAL

IMPACT

## Getting to grips with impact investing

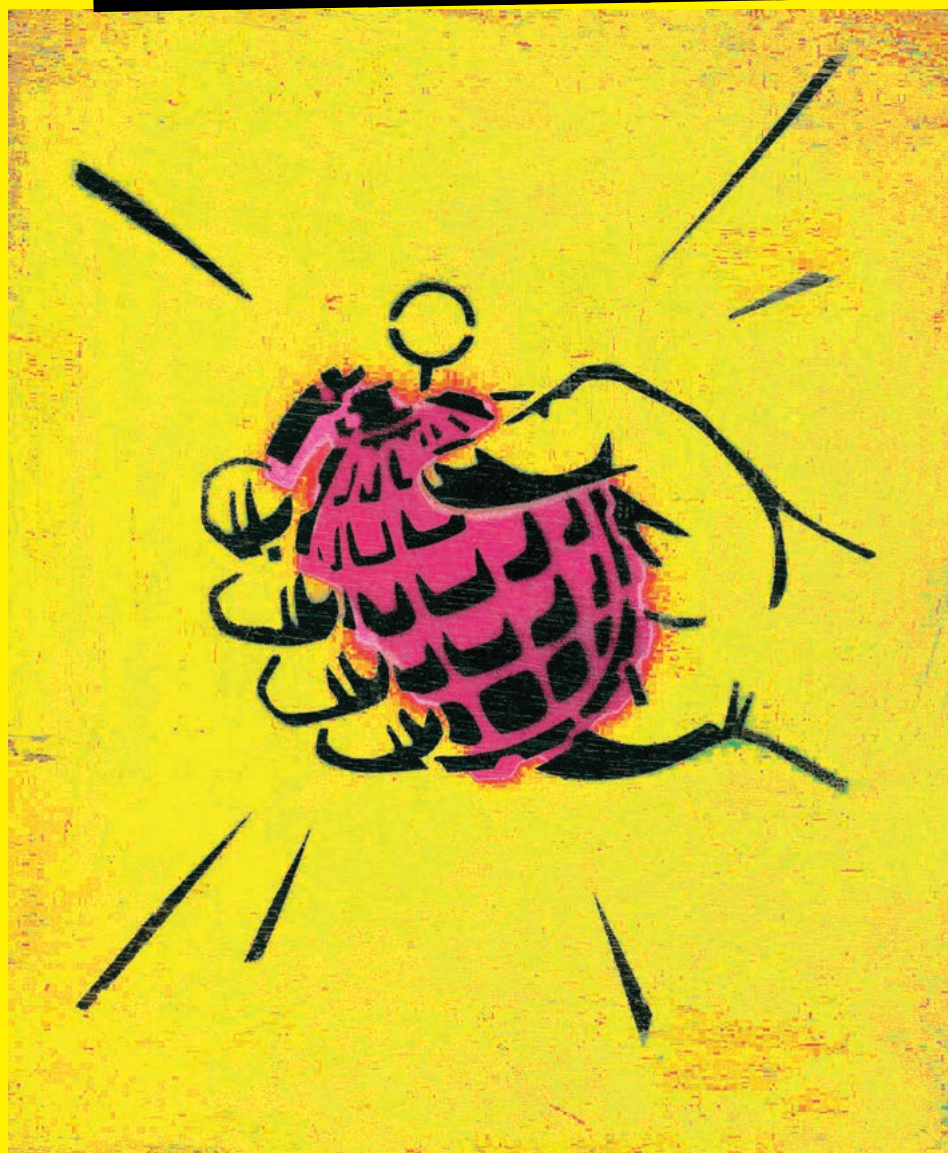
Philanthropic culture is embedded in the US and is now gaining popularity in the UK. We look at a socially conscious generation wanting to give back.

BY LYSANNE CURRIE

“**T**o prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society.” Larry Fink, the CEO of the world’s largest investor Blackrock, made headlines in 2018 when writing this in his annual letter to CEOs. For all the eyebrows raised, Fink was actually repeating an increasingly common notion: that far from being separate entities, business is part of society. In short, we need more philanthropists.

### Social purpose

Early philanthropy, pioneered by the likes of Carnegie and Rockefeller, was seemingly straightforward. As Peter Cafferkey, Founder and CEO at Boncerto says: “You could be a robber baron, you could pillage resources, do harm to the planet and treat your staff badly. But as you got closer to God you could make up for it by buying everyone a library.” Boncerto, a network that acts as a bridge between charities and high net worth individuals (HNWIs), describes itself as “dedicated to helping individuals, companies, foundations and charities to nurture, create and deliver social good”, and it’s not alone: in an increasingly



## "IT'S NOT JUST INDIVIDUALS TRYING TO INCREASE THEIR CHARITABLE GIVING, BUT ACTUALLY LOOKING TO INVEST IN BUSINESSES WITH A SOCIAL PURPOSE."

transparent world, the global charitable foundation sector, and means to facilitate it, are growing rapidly. According to the 2018 *UBS Global Philanthropy Report*, nearly three-quarters (72%) of identified foundations were established in the last 25 years. However, philanthropy is no longer straightforward – under scrutiny from both regulators and savvy millennials, navigating this increasingly highly regulated sector can be complicated.

There are various factors at play here. One is that philanthropists want not just to manage problems but to fix them, transferring methods from the private sector to not-for-profit organisations. Another is that investors want companies to have a social purpose. As Lucy Edwards, Partner at Penningtons Manches Cooper, says: "It's not just individuals trying to increase their charitable giving, but actually looking to invest in businesses with a social purpose."

### Millennial influence

We're not only talking about affluent baby boomers, such as Sir Richard Branson and his work with the Elders organisation, or wealthy Generation Xers like Jeff Skoll, whose Skoll Foundation is the world's largest foundation for social entrepreneurship. In recent years, an 'effective altruism' has sprung up among socially conscious millennials – in 2017 millennials in the UK gave £2.7 billion to charity.

Anna Josse, Founder and CEO at Prism the Gift Fund, a UK charity offering a Donor Advised Fund service, says: "The next generation often have different causes they want to support. Donors are also assessing charities carefully. They want to give to smart charities and be efficient with their giving and so look at various tax-effective ways of making a gift".

"There's a real momentum building in the UK," says Edwards, "riding a wave that started in the US. This is an interesting time, generationally. Millennials are more inquisitive and are used to a level of transparency and having information at their fingertips. They're in a position to hold companies to account in a way that hasn't been possible in previous years, because the information simply hasn't been there."

Cafferkey agrees, "Social media has pros and cons, but you can't hide in the way you used to. We saw that with the Sackler Trust." Having spent decades donating to revered institutions from Yale to the Serpentine, the Sackler family of philanthropists saw their grants turned down after it came to light in 2019 that members of the family owned Purdue Pharma, whose prescription painkiller OxyContin is blamed for much of the US opioid addiction epidemic which kills more than 100 people per day. In donating so lavishly, were they merely "laundering their reputations" as Rob Reich, Professor at Stanford University claimed?


### Transatlantic differences

Interestingly, there are differences of approach on either side of the pond. Josse explains: "In America, when you make a gift to charity, tax is deducted at source. However, it's not quite as simple in the UK. Under Gift Aid, charities and higher rate taxpayers need to claim 25% from the Government on the donation."

There are numerous tax incentives available, many of which remain underused because advisers are too generalist. "They are not always aware of different tax incentives for charitable giving and so are unable to discuss the various options with clients," adds Josse.

Donor Advised Funds (DAFs) simplify the administration of giving. They receive the same tax relief as UK charities and are becoming more popular here, echoing the US where over \$110 billion of charitable assets are in DAFs. There are also tax breaks available for those bequeathing property or art to British charities, although the art has to be 'in the national interest'. Meanwhile, donors can still contribute even after death, via the Legacy10 tax break, introduced by the Government in 2012. Those leaving 10% or more of their wealth to charity in their Wills are granted an inheritance tax cut from 40% to 36% on their estates.

One British trend identified by Edwards is in attitudes to inheriting family businesses, or families generally inculcating philanthropy across generations. "Parents want their children to be responsible and socially aware," she says. "The conversation is changing from 'I want to make sure my children are financially mature', to 'I want my children to be responsible, but also be aware of the privileges their wealth brings them, making sensible decisions and with a view to the impact of the family's social footprint'." It may be a tried and tested approach, but Edwards says involving children in charitable endeavours is still one of the best ways to help them dip their toe into financial responsibility.

Looking to the future, it's the socially conscious Generation Z, with their concerns about everything from microplastics to climate change, who look certain to carry the torch forward. Says Cafferkey: "They will hopefully mark the baseline of what is acceptable and what is expected to change. How you make your money is important. These changes take a generation to kick in. Hopefully, we're just seeing the beginning." 

### How can we help?

Please contact Lucy Edwards on +44 (0)20 7457 3054 or [lucy.edwards@penningtonslaw.com](mailto:lucy.edwards@penningtonslaw.com)



Lysanne Currie was previously Head of Content at the Institute of Directors and has written for the *Guardian*.

## Why doing a degree in the US or UK is a big draw

# IT'S AT

The growing trend for young people to study at overseas universities, particularly in the US and the UK, has long-term implications for both students and their families. *Context* takes a closer look at how globetrotting students are benefitting from the international experience.

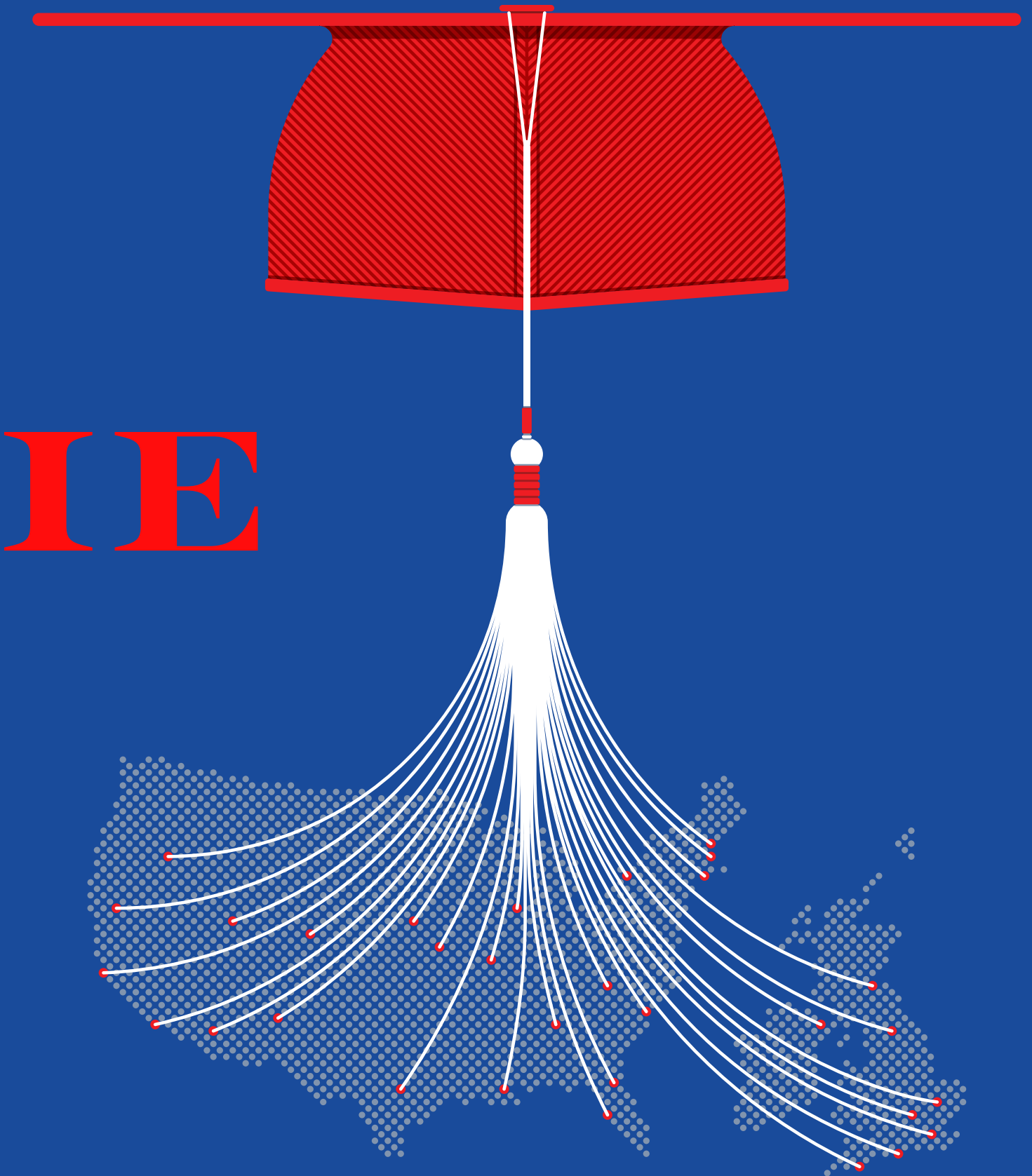
**BY ELEANOR DOUGHTY**

**T**here are many reasons why young people choose to cross borders, and particularly the Atlantic, to embark on their undergraduate careers. The result is a growing number of cross-border families with a global footprint.

Laura Dadswell, Partner and Co-Head of Private Wealth at Penningtons Manches Cooper, says: “When it comes to successful people and their children, it is of utmost importance that the next generation can access the best education available, even if that means looking outside of their home country.

“Among my own clients, I see children getting offered places at Oxbridge and choosing Harvard instead. Sixth-formers are now actively looking to the Ivy League as an alternative, and that has interesting long-term implications for the cross-border nature of those families.”

The number of international students attending university in the UK is increasing at a rapid rate. Official statistics show there were 460,000 international students in the country in 2017/18, an increase of more than 100,000 in just a decade. While the top country of origin continues to be China, young people from America make up a significant proportion of the British student population, with 18,885 US students choosing to study in the UK.





The UK is second only to the US when it comes to its international student population. Nearly 5% of all those enrolled in higher education in the US are international students, with the number growing fast – in 2018 the figure for international students surpassed a million for the third year in a row, according to the 2018 *Open Doors* report on international educational exchange.

### Heading to America

There are many reasons why the brightest UK school leavers are starting to look beyond Oxbridge when considering where to apply. Higher education in the US takes a wholly different approach, starting with the admissions process.

Rowena Boddington, Director of Advising and Marketing at the Fulbright Commission, a non-profit organisation that is part of the EducationUSA advice service, says: “You apply for entry to the university, and not to a course, so you don’t have to know what you want to study when you enter.”

Degrees last for four years rather than the usual three in the UK, and students take a range of classes in the first two years before deciding towards the end of the second year what they want to pick as a ‘major’ for graduation.

Because applications are sent to institutions rather than subject departments, there is no limit to how many applications a prospective student can make, though Boddington says six to 10 well-considered applications is typical. “In the UK, university admissions are about

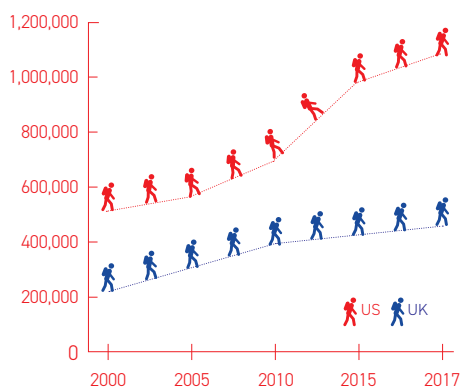
“US ADMISSIONS OFFICERS TRY TO BUILD WELL-BALANCED CLASSES AND LOOK AT WHAT ELSE YOU CAN OFFER – WHAT YOU DO IN YOUR FREE TIME, WHAT YOUR WORLDVIEW IS, WHAT MATTERS TO YOU.”

your academic results,” says Boddington. “US admissions officers try to build well-balanced classes and, in addition to your academics, look at what else you can offer – what you do in your free time, what your worldview is, what matters to you.”

While admissions teams have their choice of applicants, students also have their pick of universities – there are 4,500 of them across the US. While the eight Ivy League universities are the best known, there are plenty of other high-quality institutions to choose from. Boddington names Swarthmore College in Pennsylvania, Tennessee’s Vanderbilt University and Duke University in North Carolina. “They are all looking for top students, but they are not necessarily household names in the UK,” she says.

There are many parents that feel crossing the Atlantic to study will better equip their children for future careers and to prosper as genuinely international individuals.

INTERNATIONAL STUDENTS IN THE US AND UK



### To be a British undergraduate

For the thousands of overseas students interested in undergraduate study in the UK, there are 164 universities to choose from, 24 of them members of the elite Russell Group. Within that, there is the ‘golden triangle’ – Oxford, Cambridge and the top London universities.

The British higher education system is standardised in several areas. Tuition fees are set by the Government for domestic students, while the Universities and Colleges Admissions

Service (UCAS) allows global applications through a central system. Candidates can pick up to five courses at as many universities; for those wishing to apply to Oxford or Cambridge, it is not possible to apply to both in the same year.

One benefit of pursuing undergraduate education in the UK is the proximity to London and the rest of Europe for travel and internships during or following university, as well as for networking opportunities. The capital, with its 40 higher education institutions, offers a unique student experience. At the London School of Economics (LSE), 60% of students are international, in a city where over 300 languages are spoken. “You get to encounter ideas from all over the world as part of your daily life,” says Laura-Jane Silverman, Head of LSE Generate, the university’s entrepreneurship centre. “In a globalised world, that kind of international perspective is invaluable,” she adds.

### Global citizens

Dadswell says the number of wealthy families from across the world that choose to send their children to the UK and the US for higher education creates an interesting, and growing, footprint of western culture. “Whether you are talking about China, India, Russia, LatAm or elsewhere, you see those children going back to their home country on graduation with a much more western approach,” she says. “The US/UK-educated generation will come back home with a different attitude to managing family money, protecting assets, dealing with succession of family businesses and accepting things like divorce. Not surprisingly, we see an increasing appetite globally for private wealth advice based on principles developed in the US and the UK”.

There is also a growing likelihood that students put down roots in the country in which they choose to study, perhaps meeting a potential life partner while at university, establishing a career straight after graduation or buying a house there. Likewise, it is not uncommon for parents to purchase second homes in the countries where their children have chosen to study, either to facilitate easy visiting while the child is away from home, or to provide student accommodation.

### WHAT PRICE AN EDUCATION?

For those used to paying British boarding school fees of up to £16,000 a term, a British university education looks cheap, with tuition fees of £9,250 per year set by the Government for all institutions including Oxbridge.

In the US, fees vary from university to university: all-inclusive Harvard fees currently ring in at \$67,580 per year, while at Boston University, tuition, board and room costs \$43,810.

Such cross-border moves create a raft of legal issues that require consideration, not least the requirements for visas and the potential tax implications of living and working in a second jurisdiction. Students who settle in the US in particular will need to be mindful of assuming ‘accidental American’ status and becoming liable for taxation under the US system (see page 18).

Pat Saini, Partner and Head of Immigration at Penningtons Manches Cooper, says: “We are often assisting clients with children who are thinking about applying to attend university in either the US or the UK. People often don’t realise that you need to apply for visas in plenty of time. It’s much better to talk to

us and gain an understanding of the process early on so there isn’t a last-minute panic.”

### Talking fees

The cost of a university education varies enormously around the world, just as the approach to education funding differs between countries. Dadswell points out that the education funding culture is often the first noticeable difference for British parents looking at further education abroad: “Wealthy families in the UK are used to spending money on secondary schooling up to the age of 18 and they expect education after the age of 18 to be much cheaper. In the US, it’s the other way around, so the structuring is quite different,” she says (see box).

What is clear is that, for those with the means to choose the very best available for their child, an ever-increasing number are opting for an international experience. In so doing, they are creating a next generation of cross-border nationals who will grow up with a far more international perspective, often calling more than one country home. 📧

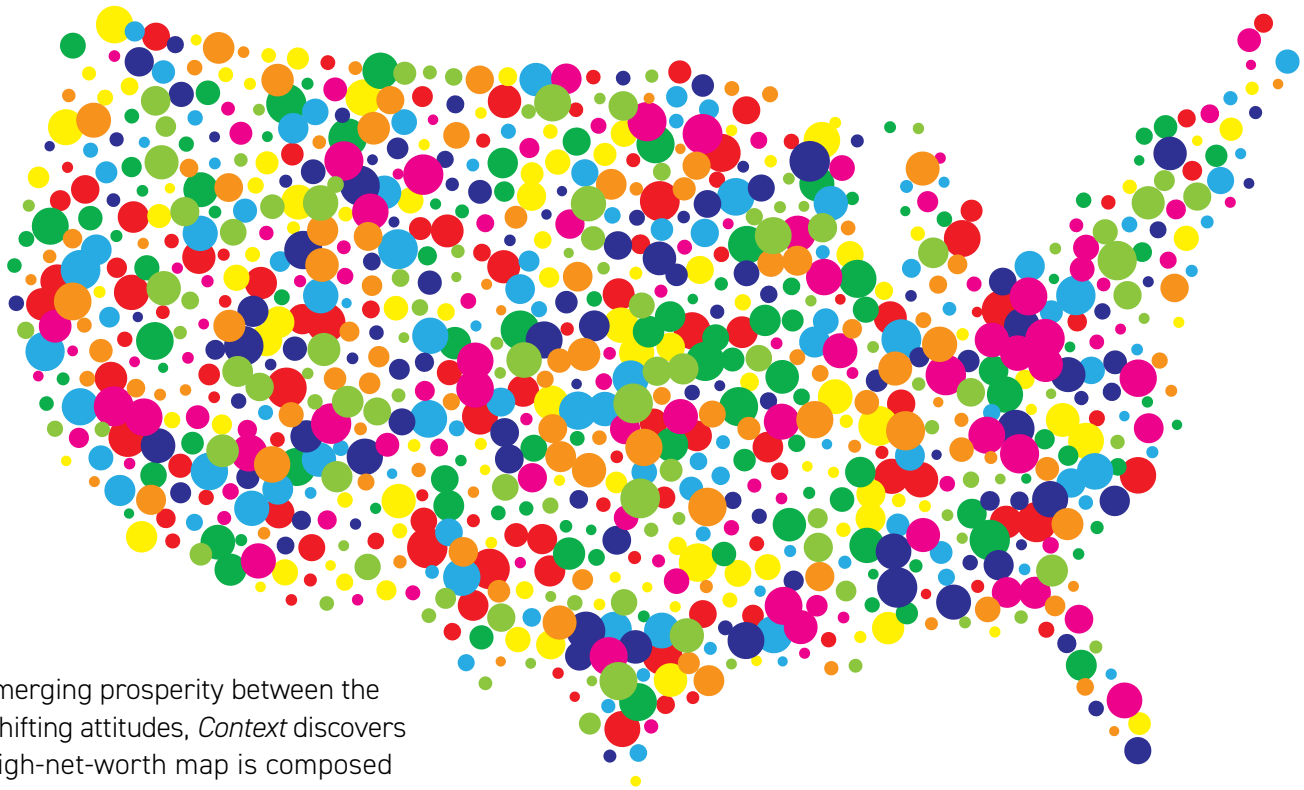
### How can we help?

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“FOR THOSE WITH THE MEANS TO CHOOSE THE VERY BEST AVAILABLE FOR THEIR CHILD, AN EVER-INCREASING NUMBER ARE OPTING FOR AN INTERNATIONAL EXPERIENCE.”



Eleanor Doughty has written for *The Daily Telegraph*, *Financial Times* and *The Times*.



Thanks to emerging prosperity between the coasts and shifting attitudes, *Context* discovers America's high-net-worth map is composed of finer brushstrokes than ever before.

BY NICK SCOTT

## The changing shape of the US elite

# Altered

It is a truth universally acknowledged – to borrow a famous literary bijou – that an American in possession of a vast fortune must be dwelling on either the West or the East Coast. After all, California's economy surpassed the UK's in the middle of last year, its gross domestic product of \$2.7 trillion making it the world's fifth largest, while an assessment of the East Coast's major economies yields similar results.

### Middle America

But it's folly to overlook the burgeoning commercial potential nestling in parts where the phrase 'ocean views' isn't popular real estate parlance, according to Laura Dadswell, Partner and Co-Head of Private Wealth at Penningtons Manches Cooper. "We characterise the situation as being new money on the West Coast – tech whizz-kids, moneyed by the age of 30 – and older money on the East Coast," she says. "But there's a whole realm of wealth and sophistication between the two that people forget about."

Elizabeth Carson, Family Partner at Penningtons Manches Cooper, agrees. "Major cities like Chicago, Dallas and Houston have an abundance of wealth," she says. "There are billionaires and multi-billionaires throughout the country."

"MAJOR CITIES LIKE CHICAGO, DALLAS AND HOUSTON HAVE AN ABUNDANCE OF WEALTH ... THERE ARE BILLIONAIRES AND MULTI-BILLIONAIRES THROUGHOUT THE COUNTRY."

Indeed, 10 of the top 20 in the current Forbes 400 are based on neither coast, with the likes of Charles Koch (Kansas), Walmart's Jim Walton (Arkansas), Warren Buffet (Nebraska) and Michael Dell (Texas) also making an appearance. Meanwhile amongst the younger American billionaires on the list are Ernest Garcia III, CEO and Co-Founder of Arizona-based Carvana, and Scott Duncan, heir to Texas-headquartered Enterprise Products Partners.

Ben Cook, CEO at Colmore – a fintech company with offices in London, Zug and Dallas – cites Texas as a major example of the immense wealth in what are somewhat disparagingly referred to as 'flyover states'. "You have oil in Houston, technology in Austin and financial services in Dallas, driving



significant wealth creation,” he says. “The technology sector has created immense value for individuals, and whilst the West Coast is its traditional base, it’s also hugely expensive to live there. Texas is becoming a ‘go-to’ destination for people relocating; this spread of wealth seems certain to continue.”


### Cultural shifts

What are the implications of a more homogenous wealth map? It seems reasonable to anticipate more uniform attitudes towards succession planning, structuring, wealth management, taxation and philanthropy, and a merging of regional wealth cultures (see box). “There have always been top-notch wealth advisers in non-coastal locations,” says Erin Fraser, an Associate at Farella Braun + Martel. “With the appreciation of extreme wealth in some ‘untraditional’ markets and more connectivity generally, those advisers that were a local secret have had an opportunity to grow and build a bigger brand. As cities become hotspots for tech campuses and the wealth

### HAND DOWN OR HAND OVER?

How HNWI Americans accrue their wealth and conduct their financial affairs has long been subject to cultural distinctions. “New York, for a long time, has held an attraction in terms of family money or family-owned corporates,” says Dadswell. “Discussions about succession are around management of family businesses down the generations, what to do with the personal wealth that flows out of that and ensuring children don’t get access to it too early. Conversely, the tech generation’s wealth is much more about private and philanthropic foundations. Money that comes quickly doesn’t generate the same mindset as inherited wealth.”

In an era of growing financial inequality, consciences amongst the wealthy are being pricked. Far from flocking to the seven states – Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming – in which no personal income tax is levied, some are seeking to pay more. Earlier this year, super-rich notables including George Soros and Facebook’s Co-Founder Chris Hughes signed a letter imploring 2020 US presidential candidates to alleviate inequality and climate change via a wealth tax.

Emerging prosperity between the coasts will be a self-perpetuating phenomenon, in all likelihood. As these central states grow to rival the coastal zones as a destination for overseas investment and as a place to live and work, that vast expanse we call ‘The Heartlands’ may become one huge bullseye. 

### How can we help?

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**WEST VIRGINIA** TOPS THE LIST OF STATES MOST FLOWN OVER WITH A FLYOVER TO DESTINATION RATIO OF

195.4

# states

that often trails behind, advisers with long-standing reputations for client service will provide real value.”

And for the HNWIs flocking to emerging regional destinations in the future? “An individual with residences in multiple states and multi-jurisdictional business interests may have some very complex problems they have to work through annually. This means that finding, and keeping, a trusted set of advisers is more valuable than ever. What the set of advisers looks like is flexible: from forming a family office or joining a multi-family office, to managing a team of advisers without a formal structure. In any case, clients are seeking advisers that can work seamlessly through complex issues as part of a team.”

“AS CITIES BECOME HOTSPOTS FOR TECH CAMPUSES AND THE WEALTH THAT OFTEN TRAILS BEHIND, ADVISERS WITH LONG-STANDING REPUTATIONS FOR CLIENT SERVICE WILL PROVIDE REAL VALUE.”



Nick Scott has written for the FT’s *How to Spend* It supplement and *The Observer*.

Where you're born can have unforeseen consequences

# the accidental american

A surprising number of individuals, including the current British Prime Minister, discover they are US citizens too late, by which time the implications can be costly, explains our investigation.

BY CLAIRE COE SMITH

In 2016, while serving as the UK's Foreign Secretary, Prime Minister Boris Johnson renounced his US citizenship. He was one of more than 5,000 individuals who chose to do so that year, up from less than 300 a decade previously. Johnson, who was born in New York but lived in America for only five years, fell foul of the US tax authorities in 2014 when he sold his London home.

Unlike most countries, America taxes all citizens, regardless of their US residence status, on their worldwide income and gains, and a strong tax-enforcement campaign in recent years has had a big impact on dual citizens, who are liable for taxes in both countries. While Johnson was Mayor of London and paying tax in the UK, he was still liable under US law to pay capital gains tax on the sale of his main residence, which is subject to tax relief in Britain. He reportedly owed more than \$50,000 in US tax on the gain which arose on the sale of his Islington home.

His story is just one of the more high-profile examples of the growing phenomenon of the 'accidental American', individuals who may have amassed considerable wealth and reached middle age before becoming aware of their exposure to the US tax authorities.

## Dual citizenship

Suzanne Willis is a Partner at Blick Rothenberg where she practises US and UK tax. She says: "Some people don't realise that they are entitled to US citizenship. If they were born in the UK and one of their parents happened to be American, that can be the case. Similarly, we have had clients born in the US because their parents were there for work purposes temporarily. They left as a baby, but they are a US citizen even though no-one else in their family is." While US citizenship has many potential benefits, America's approach to expatriate tax means people in this situation do need to get to grips with the intricacies of its tax system.

Willis adds: "When you have an accidental American who has had a portfolio for 20 years and then suddenly discovers this exposure, it can be a really big issue."

Luniah Cohen, Client Adviser at UBS Wealth Management, cites the example of a Canadian client who had been in London for five years and had previously briefly worked in the US. The client had been certain he was neither an American citizen or a green card holder, but on closer inspection it transpired his green card was still valid

tal



– a revelation which opened a whole ‘can of worms’ from a tax perspective that required a thorough review with the client’s tax advisers, and a review of their wealth planning.

“We do see quite a number of people who are confused about what it means to be a US citizen, and there are big implications from a tax perspective if you have any kind of US connection,” says Cohen.

### Growing issue

As families become increasingly international and a growing number of people choose to work on both sides of the Atlantic, there are now countless examples of high-profile individuals whose children are potentially impacted by this status. This includes the offspring of stars like Piers Morgan, David and Victoria Beckham and Robbie Williams, as well as the royal baby, Archie Harrison Mountbatten-Windsor – perhaps the most famous youngster facing these issues as a result of his US/UK parentage.

The rules also cover children who may have only one US parent, if that parent has spent enough time in the US to satisfy certain residency requirements.

Elizabeth Carson, Family Partner at Penningtons Manches Cooper, says: “In many cases a US citizen parent will pass their citizenship to their child, not realising that there is no ‘opt out’ clause. So if you meet those residency requirements and you have the ability to pass on your US citizenship, the child is a citizen whether they have a US passport or not, and they have an obligation to comply with US tax and reporting requirements.”

### Common pitfalls

The sale of a primary residence and its exposure to US tax is one of the classic taxation traps encountered by accidental Americans. “Where you have taken out a non-US dollar mortgage overseas, if you can be deemed to have made a gain when you repay that mortgage, you can potentially be taxed on that gain,” says Carson. “A shift in the exchange rate that takes place during the life of that mortgage can lead to that capital gain being, on paper, quite considerable.” This is the case even if no profit has been made in pounds sterling.



“WHERE YOU HAVE TAKEN OUT A NON-US DOLLAR MORTGAGE OVERSEAS, IF YOU CAN BE DEEMED TO HAVE MADE A GAIN WHEN YOU REPAY THAT MORTGAGE, THEN YOU CAN BE TAXED ON THAT GAIN.”

Carson adds: “In family cases, we advise our clients to take detailed US tax advice if one of the individuals involved is a US citizen.”

There are a number of investment products that create unintended tax exposures for US citizens, too. Willis points to collective investments such as exchange-traded funds and unit trusts as typical components of a structured investment portfolio, but if interests in those are sold for a gain, they are taxed at the highest US tax rate – currently 37% – as well as being liable for an interest charge based on the holding period.

US citizens should also take advice if they are considering investing in Individual Savings

Accounts (ISAs), which work like normal savings accounts but come with an exemption from UK income and capital gains tax for UK citizens. That exemption does not apply for Americans.

“These days, most of the banks and investment houses are aware of these issues for Americans and know that certain products are not suited to American clients,” says Willis. “That is fine, as long as they know they are dealing with an American.”

Often that does not happen. Carson points to another example of a client with a UK passport who listed Boston as his birthplace. The individual involved had always assumed that place was Boston, Lincolnshire, in the UK; in fact, after some investigation, it turned out it was Boston, Massachusetts, in America.

### Renouncing citizenship

One option for accidental Americans who want to avoid US taxes is to renounce their citizenship, as Johnson did. The number of Americans opting to do this has grown significantly in recent years, hitting a record high of 5,411 in 2016 compared to just 278 a decade earlier, in part as a result of the clampdown by the US tax authorities on dual citizens. In addition to the tax exposures, US citizens abroad also now face cumbersome reporting and disclosure requirements.

“In some cases, there is an exit tax to pay on expatriation,” says Willis. “You are deemed to be doing it for tax purposes if you have net assets over \$2 million, your average income tax over the last five years has been over a certain amount, or if you can’t certify that you have complied with the last five years of US tax filings. In that case, you are treated as if you have sold all of your assets the day before you expatriate, and any gain you make on those assets is subject to US tax. Obviously, that can be very expensive.”

### Changing world

Not all US citizens will choose to renounce their citizenship, even if they discover late in the day that they are accidental Americans.

James d’Aquino, Private Client Partner at Penningtons Manches Cooper says: “We have clients who have very much encouraged their children to keep their US citizenship from the

#### STEPS TO RENOUNCEMENT

The process of renouncing US citizenship can be complicated. Individuals are required to:

- have a second nationality to fall back on
- prove mental capacity
- schedule a number of appointments with the US embassy to discuss their case, sign documents and later complete a final tax return (and potentially pay expatriation taxes)
- pay a renunciation fee of c. \$2,000



age of 18, which is the earliest you can expatriate, until they decide where they wish to live. Those parents are very conscious that the world is changing. Expatriation may seem an attractive option from a tax perspective, but equally you may want to live or work in the US at a later date and that dual citizenship may be enormously valuable.”

Carson, who is American herself, adds: “Many Americans are proud to be US citizens and would never consider renouncing their citizenship. Instead they work with a network of advisers who can help them to comply with the tax rules and their obligations.”


In France, the Accidental Americans Association is currently taking legal action against a group of French banks, claiming they are being discriminated against because the banks do not want them as customers. They are French citizens who are also US citizens, often without even knowing it, and are turned away from financial institutions because of their complicated tax status.

### “YOU MAY WANT TO LIVE OR WORK IN THE US AT A LATER DATE AND DUAL CITIZENSHIP MAY BE ENORMOUSLY VALUABLE.”

According to European newspaper *The Local* there may be as many as 10,000 accidental Americans in France and up to 300,000 across Europe – some of whom do not even speak English.

But the issues are not insurmountable for Americans in France, the UK or elsewhere. “You need an adviser who is alive to these issues,” concludes d’Aquino, “to make sure that what you are doing in the UK fits in with the US rules. As long as your adviser is conscious of all the complexities, and those

are taken into account, the effect should be perfectly manageable.”

With the UK’s new Prime Minister and the youngest member of the royal family both accidental Americans by birth, others can certainly consider themselves to be in good company. 

#### *How can we help?*

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Claire Coe Smith has written for *The Times*, *Financial Times* and *City A.M.*

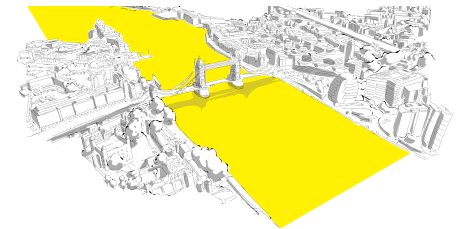
# the PROPERTY fixer

We talk to Ugo Arinzeh of Onyx Property Consultants to find out what Americans moving to London need to know about schools, popular neighbourhoods and buying a home.

## What should Americans relocating to London consider if they have school-age children?

**UA** The first question is whether they want their children to remain in US schooling. There are only three American schools, and only one is easily accessible to central London, which is in St John's Wood. The others are in Egham and Cobham, in Surrey.

It therefore leads a lot of Americans to focus their property search on north-west London. Remember, there are no school buses in London like there are in the US, so most children are either taking public transport or relying on their parents doing 'the school run', which is a very British phenomenon.



are not familiar with, through to modern serviced apartments in high-rise towers. There is also a mix of products in close proximity, with some of the nicest houses found next door to social housing. Different income profiles and different housing types co-exist in London.



South Kensington and Chelsea are also popular, and then we see places like Islington and Angel popular with young tech workers thanks to their close proximity to Old Street and Shoreditch.



## Which postcodes do Americans moving to London tend to favour, and why?

**UA** St John's Wood is a high-value part of town, so many Americans look at nearby Swiss Cottage or West Hampstead. Egham and Cobham in Surrey are popular for a more suburban lifestyle. Holland Park [in West London] is an area people love because it is on the Central underground line and has a quaint, village feel.



## What are your top tips for Americans looking to buy their first home in London?

**UA** Space is a big issue. Unless they're coming from New York, Americans need to get their heads around the kind of properties available in central London – there isn't a huge number of single-family homes with a driveway. They need to look at where they will be working and then establish how long a commute they are prepared to tolerate.

London has a wide array of housing stock, from converted terraced flats, which Americans

In America, most people own their homes and the concept of leasehold versus freehold (unlike a freeholder, a leaseholder doesn't own the land the property is on) is something I often have to explain. Then there are mortgage questions – in the US, you can rock up aged 55 and get a 30-year fixed-rate mortgage, and that is not possible here. The added cost of stamp duty (a tax payable on the purchase of any residential property or piece of land over a certain value) is also something that usually shocks American buyers.



**Ugo Arinzeh**  
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What would you like to see in the next issue of CONTEXT?



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