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Top Ten Reasons to Use the U.S. as a International Tax & Residency Haven

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May 6, 2014
New York NY

TTN Conference

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Overview

- Why the U.S.?
 - For Investment Structuring
 - For Residency Planning



For Investment Structuring

- Reason 1: Because the U.S. is the world's greatest tax haven
 - Discriminatory tax system
 - No capital gains tax for NRA's, foreign trusts or entities on U.S. (non-real estate, non-trade or business) investments
 - The U.S. dollar is still the world's safe haven currency
 - Relative political stability and safety net for banks
 - Relative confidentiality and security of bank & tax information
 - Treaty network; not on any blacklists; badge of legitimacy



For Investment Structuring (Cont'd)

- Reason 2: Because U.S. trust (non-tax) law is among the most sophisticated and competitive for meeting international client needs
 - Directed trust laws; private trust company laws
 - Elimination of rule against perpetuities
 - Short statutes for asset protection trusts
 - Freedom of testation, no forced heirship
 - Competitive market place for lawyers, accountants, trustees and investment managers



For Investment Structuring (Cont'd)

- Reason 3: Because U.S. tax law provides the most detailed and positive treatment of trusts for international planning purposes of any high tax jurisdiction
 - The U.S. “Foreign” Trust
 - Foreign Trusts taxed similar to NRA’s (unless U.S. Beneficiaries)
 - Black-letter law allows any U.S. Trust with the right provisions to escape U.S. general taxation for non-U.S. source income and U.S.-source capital gains.
 - Not a special regime; compare Canada, for example
 - Trustee can be U.S. in many U.S. states
 - Income-stripping or foreign grantor trusts can benefit U.S. as well as foreign persons
 - Flexible U.S. holding structures (particularly LLC’s) and tax election (check-the-box)
 - Retained powers to manage investments and hire/fire trustee don’t undermine U.S. tax protection; even family members on PTC Board permissible, if don’t control distributions to themselves
 - Asset Protection Trusts enable grantor to retain interest without income, estate or inheritance taxation
 - State competition for private wealth creates planning opportunities



For Investment Structuring (Cont'd)

- Reason 4: Hide in plain sight! Bank and tax confidentiality stronger than in other tax havens or emerging markets, owing to:
 - U.S. makes the rule; carries a big stick but uses it to beat outside its border
 - Meaningful information exchange from U.S. a growing threat, but U.S. government can only exchange tax information it has. Still very little tax information reported for foreigners investing through appropriate structures accounts into U.S.
 - IGA's brought on by FATCA truly threaten this but still a weak force compared to pressure for information disclosure on small tax havens, Switzerland
 - England has all crimes legislation, U.S. does not
 - Attorney-client privilege strong



For Investment Structuring (Cont'd)

- Reason 5: Because of access to U.S. investment markets and managers
 - U.S. structures open access to SEC-Registered offerings
 - Makes U.S. real estate investments, though taxable, more tax efficient
 - Avoid withholding under FIRTA
 - Avoid branch profits tax
 - With trusts, reduces capital gains tax from 36% to 20 to 23.5% Federal
 - Regulated & Competitive liquid investment market and management
 - Rights Enforceable; rule of law
 - Flexible investment products (including U.S. insurance products) and
 - Historic/current economic policy emphasis to control inflation



For Residency Planning

- Reason 1: Because U.S. has probably the most complex immigration system in the world, with many avenues in, especially for the wealthy
 - Effective citizenship by investment program: The EB-5 visa to Green Card to Passport
 - Investor, extraordinary ability and other
 - Tourist and visa-waiver programs used by millions for part-time residency
 - Work visas
 - Student and practical training
 - Many alternatives today to obtain citizenship elsewhere entitling one to U.S. part-time residency
 - Liberal access to citizenship by birth and parentage



For Residency Planning (Cont'd)

- Reason 2: Because there are options for part-time, and even full-time, residency in the U.S. that do not require U.S. taxation
 - Part-time: Substantial presence test, closer connection test, treaty tie-breaker
 - Effective 120 day average
 - Effective 183 day maximum
 - Complex exceptions and rules
 - Full-time: Student and practical training
 - Accredited program
 - 5 year maximum (for tax purposes)
 - Derivative student status for spouses



For Residency Planning (Cont'd)

- Reason 3: Because with proper pre-immigration planning the U.S. estate tax for the immigrant's pre-existing wealth can be minimized if not eliminated
 - If foreign domicile preserved, income tax residency is not equal to U.S. worldwide estate taxation
 - Assets placed in trust before arrival can be excluded from U.S. estate taxation
 - For the benefit of others for generations to come
 - While retaining interests for one's own benefit in discretionary trusts
 - Choice of jurisdiction with asset protection statutes important
 - Availability of sufficient income or wealth for lifestyle important
 - Possible to retain power to remove/replace trustee, other checks and balances for personal protection
 - For those adopting U.S. domicile, \$5.3 million estate exemption per spouse enable significant retained assets to escape taxation
 - Benefits of U.S. life insurance planning create further tax replacement value



For Residency Planning (Cont'd)

- Reason 4: Because with proper pre- or post-immigration tax planning, the U.S. estate gift and income taxation of foreign family wealth can be passed to you U.S. tax-free
 - The foreign grantor trust concept
 - No taxation of direct gifts or gifts in trust for immigrant's benefit
 - Foreign estates not subject to U.S. income taxation for approximately two years, and no U.S. estate tax
 - Transfers from non-U.S. family members not subject to generation skipping transfer tax
 - Can be placed in trust for generations

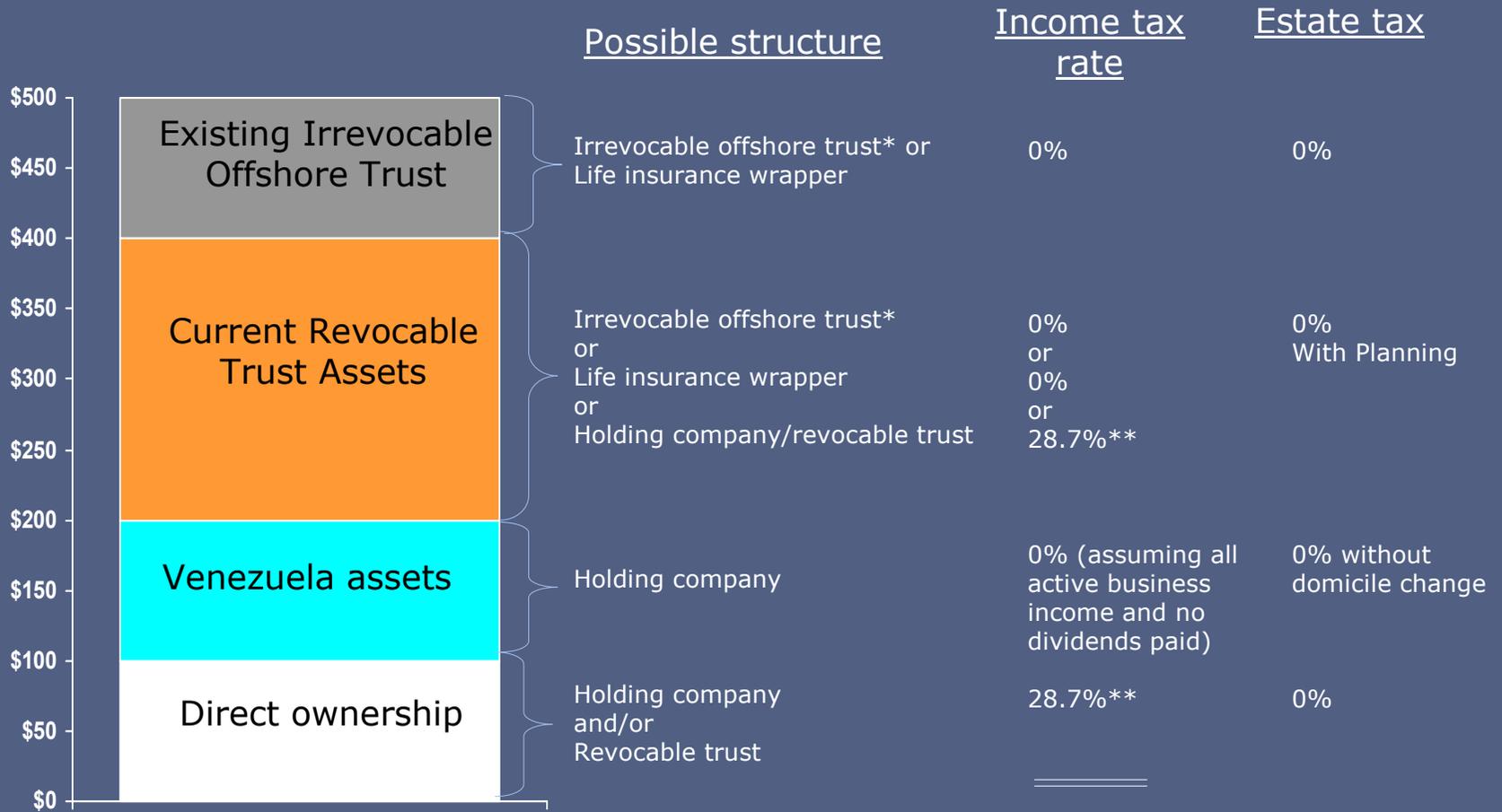


For Residency Planning (Cont'd)

- Reason 5: Because with proper pre-immigration tax planning, in many cases, the U.S. income taxation of the immigrants accumulated wealth can be temporarily or indefinitely minimized to a substantial degree.
 - “Temporarily” includes:
 - Stepping up the basis on appreciated assets before arrival
 - Private annuities
 - Non-taxable residency management, including observation of the substantial presence test, closer connection or treaty-tie breaker tests
 - “Indefinitely” includes:
 - Outright gifts and drop-off trusts to others
 - Life insurance planning with trusts
 - Irrevocable discretionary trusts with
 - 5-year rule observed
 - Adverse party consent
 - Transfers to U.S. trusts in no-tax states can save U.S. state income taxes

In Summary, with planning, a lot of U.S. taxation of immigrant wealth is mutable and depends on the level of constraint one is willing to endure.

Example: A diversified approach to structuring assets for US tax residency



Total blended nominal income tax rate: 5.8% (or 17.2% if Revocable Trust assets remain exposed)

* Trust must be established 5 years before any beneficiaries become US tax resident

** 25% dividend income at 43.4% rate; 75% long-term gain at 23.8% rate