



2017 Delaware Trust Conference

Winning the Wealth Management Game

October 24th & 25th

Chase Center on the Riverfront



PRE-IMMIGRATION AND PRE-EXPATRIATION PLANNING

A discussion about the hurdles, traps and best practices for counseling clients entering or leaving the U.S.

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The Attraction of the United States

Why are people immigrating here?

- Top universities
- The American Dream



Why are they leaving?

- “Reverse Trump Bump”
- FATCA / U.S. Taxation and Compliance
- Minimal connections to the US



Understanding Your Immigration Status

Who is a US taxpayer?

- Income taxpayers
 - Citizenship, permanent resident, substantial presence test
 - Accidental Citizens
 - Special visas
- Taxpayers for estate tax purposes
 - Citizenship and domicile concept

When do you plan to become US?



Pre-Immigration Planning

Why is it important?

- Non-citizen, non-residents subject to income tax on U.S. source income & transfer tax on U.S. situs assets
- Non-citizen, residents subject to income tax on WW income & transfer taxes on WW assets if U.S. domiciled
- U.S. persons subject to income & transfer taxes on WW assets



Pre-Immigration Planning

Steps to take before becoming a U.S. taxpayer:

1. Review current structures in place

- CFC (i.e., ownership of an offshore private investment company)
- PFICs (i.e., ownership of offshore mutual funds)
- Offshore trusts – settlor or beneficiary of one?

2. Establish a gifting program

- Outright gifts
- Drop off trusts



Pre-Immigration Planning

3. Step up basis where possible

- Accelerate income recognition by selling capital gain assets (and potentially re-purchasing them)
- Check the box election on corporate entities

4. Explore use of insurance

- Private Placement Life Insurance – income tax planning
- Irrevocable Life Insurance Trust – estate tax planning



Delaware as a Trust Jurisdiction

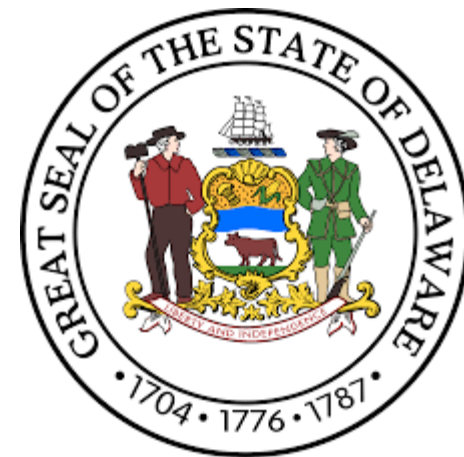
Why is it so great?

- Trusts may continue in perpetuity
- No state income tax on trusts
- Self-settled trust legislation
- Directed trust legislation
- Delaware “silent trust”



Delaware as a Trust Jurisdiction

- Forced heirship claims not recognized
- Decanting statute
- Trustee protection



Pre-Expatriation Planning

History of expatriation laws in U.S.

- Expatriation Act of 1868
- Expatriation Act of 1907
- The Nationality Act of 1940
- Foreign Investors Tax Act of 1966
- Health Insurance Portability & Accountability Act of 1996
- The American Jobs Creation Act of 2004



Expatriation Today

When does the exit tax apply?

- Average income tax and net worth thresholds
- Tax compliance is key
- Exceptions for dual citizens and young expats (18 – 18 ½)

Are you ever free?

- Section 2801 tax

Avoiding the Exit Tax

- Gifting
- Use of Delaware trusts





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