

Trust and Insurance Planning for International Families

International Family Forum – Managing Change

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TRUST AND INSURANCE PLANNING FOR INTERNATIONAL FAMILIES

- **Why would you need a trust?**
- **Different types of trusts**
- **Choice of jurisdiction within the US**
- **Choosing and working with fiduciaries – trustee, protector, advisor**
- **Use of life insurance**

WHY WOULD YOU NEED A TRUST?

- **Control your wealth**
- **Minimize taxes, including the estate (i.e., death) tax**
- **Protection against creditors, including ex-spouses**
- **Confidentiality**
- **Avoid probate**
- **Professional management**

DIFFERENT TYPES OF TRUSTS

Revocable vs. irrevocable

- Will substitute vs. completed gift

Domestic vs. foreign (for US federal income tax purposes)

- Court Test: US court exercises primary supervision over trust administration
- Control Test: 1 or more US persons have authority to control all substantial decisions

Hybrid trusts

- Governed by US law, but treated as foreign for US federal tax purposes
 - Typically (intentionally) fail the Control Test

CHOICE OF JURISDICTION WITHIN THE US

- Using a state with "asset protection" laws can be part of the planning
- Generally helpful to have low or no state income tax on trusts
- Look for states that address issues such as "forced heirship"
- Seek flexible laws and a well developed environment for trusts
- A state with a combination of these elements is desirable

CHOOSING AND WORKING WITH FIDUCIARIES – TRUSTEE, PROTECTOR, ADVISOR

What are the key decision-making roles?

- Trustee
- Protector
- Advisor

Who may act in these roles?

- Individual vs. corporate
- Sole appointment vs. multiple (co) appointments
- Domestic vs. foreign

What to expect from a corporate fiduciary

USE OF LIFE INSURANCE

Common types of life insurance

- Term Life (no cash value)
- Whole Life, Variable Universal (cash value, investment component)

Ownership options

- Individually, by insured or spouse (estate tax exposures to US policyholder)
- In trust, typically an irrevocable trust

US federal tax considerations

Tax free death benefit to the beneficiaries

- Income tax deferral (possible tax free withdrawals, loans during lifetime)

DISCLOSURES

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