The Troublesome U.S. Beneficiary

November 2, 2021

© C/A Professional Seminars 2021

The Canadian tax rules concerning estate planning, and estate freezes, wills, trusts, post mortem estate planning etc. are not simple. In many cases specialist advice is needed. But when the US rules are super imposed on the Canadian rules, because there is a US beneficiary, the whole situation becomes dramatically more complex.

The US rules are not only complicated, but they are quite different in many respects to the Canadian rules.

This material is designed to give an overview of the types of issues which arise from having a US beneficiary. This is introductory material only.

The Troublesome U.S. Beneficiary

The plan was perfect – until one of the beneficiaries turned out to be a U.S. person!

Many Canadian families have one or more children living in the U.S.

May hold U.S. green card, become U.S. citizen.

What happens to an estate plan?

© C/A Professional Seminars 2021

2

Imagine that you have designed a great plan from a Canadian perspective. It might be an estate freeze, a design schematic for a will, an income splitting trust arrangement, or post mortem estate planning. Then you find that one of the beneficiaries is a US person. Now US rules have to be considered as well. You are back to the drawing board.

US beneficiaries are common in Canadian families. A child might have been born in the US, and therefore be a US citizen from birth. Alternatively, a child may have moved to the US and become US resident. Over time, the person may have obtained a US green card or US citizenship. Having a green card for 8 years makes giving up the green card as difficult as giving up US citizenship, and, in any event, we find that people living in the US are often reluctant to do this or leave. Thus the starting point may well be that you are stuck with a US beneficiary. So the plan has to accommodate this.

The Troublesome U.S. Beneficiary

U.S. Tax System

U.S. federal plus state tax

Rates vary greatly by state

Florida, Texas, Washington, Nevada no state income tax

New York State
New York City

California

© C/A Professional Seminars 2021

CADESKY TAX
EXPERIENCE. EXCELLENCE. DELIVERED.

The total US income tax paid is composed of federal, state and sometimes local income tax. The rates vary greatly by state. There are quite a number of state which have no state income tax. The most common are Florida, Texas, Washington and Nevada. Other states which do not charge state income tax are Alaska, New Hampshire, South Dakota, Tennessee and Wyoming.

New York State and City, combined at about 13%, and California at 13.3% have among the highest personal tax rates in the US. There is a proposal to increase the California rate to 16.8%.

The Troublesome U.S. Beneficiary

U.S. Federal Tax Rates

Regular income	Up to 37%, may become 39.6%
Qualifying dividends, long term capital gains (1 year hold)	Up to 20% plus 3.8% net investment income tax

Rates more graduated

Joint returns

© C/A Professional Seminars 2021

Although an over simplification, the US basically has two types of personal tax rates, the rate applicable to regular income, and the rate for qualifying dividends and long term capital gains. For regular income, the current rate is 37% but it is expected to rise to 39.6 % probably for 2022. Qualifying dividends and long term capital gains (where the assets has been held at least one year) are subject to tax at various rates based on income, but reaching a maximum of 20% plus the 3.8% net investment income tax. There has been discussion about this rate increasing, possibly to 25%, for high income taxpayers.

The state and local taxation of income tends not to vary based on type of income. However, there is a major difference at the federal level between regular income and the lower tax rate applicable to qualifying dividends and long term capital gains.

It should be noted that US personal tax rates are much more graduated than the Canadian rates, and the filing of the joint return makes the difference even larger.

The Troublesome U.S. Beneficiary

But

Certain dividends taxed as regular income

No integration concept, leads to double tax

Great complexity, many anomalies

© C/A Professional Seminars 2021

5 5

Not all dividends are so called qualifying dividends, eligible for a lower tax rate than the regular rate. Certain dividends may be considered to be "PFIC" dividends, subject to tax as regular income. Also, distributions from trusts may carry out dividend income of previous years which is now taxed as regular income. Similar issues can arise with capital gains. It should not be assumed that all dividends or capital gains are taxed at the lower rate.

In addition, the US has no concept of integration, as we do in Canada with a dividend tax credit, refundable tax etc. Instead, the US tax system does have an element of double taxation, which is deliberate. This is often answered by creating so called flow-through entities (US LLC's are an example). These are discussed later.

The US tax system is known for great complexity, and a large number of anomalous results, some of which will be discussed in these slides.

The Troublesome U.S. Beneficiary

Estate and Gift Tax

On death no capital gain. Step up in basis.

Include value of all assets less liabilities, equals taxable estate.

Exemption currently around $12 million US per spouse, can combine.

Remainder taxed at 40%.

Exemption may drop, perhaps to $6 million US. Rate increase to 45%?

© C/A Professional Seminars 2021

CADESKY TAX
EXPERIENCE. EXCELLENCE. DELIVERED.

When a US person passes away holding appreciated assets(say stock, or real estate), no capital gain arises. Instead, the value of the assets is included in the taxable estate and is subject to US estate tax. Although no capital gain arises at death, the recipient of the assets is deemed to receive them at a fair market value basis (or adjusted cost base/ACB).

There is currently an exemption from US estate tax for approximately $12 million USD of value. This can be combined between husband and wife, making the combined exemption around $24 Million. Thereafter the remainder is taxed at 40%. There is discussion about reducing the exemption limit, possibly to $6 million per person, and there was also a discussion about increasing the rate to 45%.

US estate tax is a major issue for Americans, in the same way that capital gains on death is a major issue to Canadians.

The Troublesome U.S. Beneficiary

U.S. Gift Tax

Gift by U.S. person taxable above small amount ($15,000 per recipient) under gift tax. No capital gain. No basis step-up.

Can claim lifetime exemption (same as estate tax).

Above this 40% tax on value of gift.

© C/A Professional Seminars 2021

An estate tax is normally “back stopped” by a gift tax, otherwise the estate tax can easily be avoided by giving everything away shortly before death. The US gift tax works in the same way as the estate tax. There is an overall lifetime exemption, which is the same as the exemption for the estate tax. Above this, the gift is taxable at the rate in effect currently 40%. There is a small annual exemption of $15,000 US per donor/recipient per year. For US persons there is no gift tax or estate tax between spouses.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Who Pays

Estate Tax - Estate of Deceased

Gift Tax - Donor

Tax not paid by beneficiary / recipient.

Can receive not give.

© C/A Professional Seminars 2021

Who pays the estate tax and who pays the gift tax?

The estate tax is paid by the deceased, but of course in practice his or her estate. It is not paid by the persons who inherit the assets from the deceased. Thus there is an intermediate step where the estate is under administration, and the estate pays the estate tax. It is very important to note that the recipient does not pay the estate tax.

Likewise with the gift tax it is the donor(the person who makes the gift) who pays the gift tax. It is not the recipient of the gift. This is very important in an international context. If a Canadian resident makes a gift to a US relative, there is no tax paid by the US relative on receiving the gift. Similarly, if a US relative receives an inheritance from a Canadian individual who dies, there is no tax paid on receiving the inheritance.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Basis (ACB)

Gift - Donor's ACB + gift tax paid

Estate - FMV at death

Major difference

© C/A Professional Seminars 2021

9

CADESKY TAX
EXPERIENCE. EXCELLENCE. DELIVERED.

9

It is important to note the asymmetry between a gift and receiving an inheritance. If a US person receives a gift, the cost (basis or ACB) of the property is the donor's historic cost plus any gift tax paid by the donor. For assets received on death, the basis is the fair market value at the date of death. Thus a major difference arises between the overall tax treatment of a gift and an inheritance. This is important

The Troublesome U.S. Beneficiary

Example:

Annie, Canadian resident, has child Beth resident in U.S.

Annie is considering gift of public stock to Beth.

Cost of Stock	$ 300,000
FMV of Stock	$1,000,000

Annie has capital gain in Canada of $700,000.

Beth's cost on receiving stock is $300,000. Beth has $700,000 capital gain on later sale. Double taxation.

© C/A Professional Seminars 2021

CADESKY TAX
EXPERIENCE. EXCELLENCE. DELIVERED.

In this example, Annie, a Canadian resident has a child Beth who is resident in the US. (Beth may be US resident, or a US citizen. It does not make a difference.)

Annie is considering a gift of publicly traded stock to Beth. Her cost is $300,000 and assume the fair market value of the stock is $1 million.

If Annie makes this gift, she will be deemed to have a fair market value sale for Canadian tax purposes, resulting in a capital gain of $700,000. She will pay tax in Canada on that capital gain.

Beth will receive the stock, and take over Annie's cost of the stock which is $300,000. If Beth were to later sell the stock for $1 million, she would have a $700,000 capital gain. Thus there would be an element of double tax.

Note that Beth does not pay any US tax on receiving the stock, but will pay US income tax on a capital gain when the stock is sold. Bad result.

The Troublesome U.S. Beneficiary

Example: – cont'd

Annie can sell stock, obtain $1,000,000 cash, gift cash.

Beth's cost is $1,000,000.

If Annie leaves stock to Beth at death, Beth's cost $1,000,000.

Major difference in outcome.

© C/A Professional Seminars 2021

Realizing the issue discussed above, and wanting to take steps to plan around it, Annie considers the possibility of selling the stock, and realizing $1 million in cash. Then the cash is gifted.

In this situation, Beth's cost will be $1 million, because that is Annie's cost, and there is no inherent gain on the cash. Annie is in the same position realizing a $700,000 capital gain, whether she gifts the stock in specie or sells the stock, raises the cash, and gifts the cash.

Alternatively, if Annie leaves the stock to Beth in her will, then Beth's cost for US tax purposes will be $1 million, being the fair market value on Annie's date of death.

Note the major difference in the outcome, and the simple planning which can be carried out to negate the disadvantages.

The Troublesome U.S. Beneficiary

Example: – cont'd

Double taxation arises on gift in kind.

No double taxation if stock sold, then gift of cash or leave on death.

U.S. tax system favours leaving appreciated assets at death v. gift during life.

Common mistake.

© C/A Professional Seminars 2021

In the US, since no capital gain arises on a gift, there is not double taxation. But in a cross boarder scenario there will be. The US tax system favours leaving appreciated assets at death versus making a gift during life. Alternatively, if appreciated assets are to be left by gift by a Canadian parent for example, then steps should be taken to increase the tax cost before the gift is made.

This is a very common cross border mistake.

The Troublesome U.S. Beneficiary

Trusts

U.S. tax system divides trusts into 4 basic categories.

	Grantor	Non-Grantor
U.S. Resident	XX	XX
Non Resident	XX	XX

© C/A Professional Seminars 2021

The US tax system divides trusts into four basic categories, grantor vs non-grantor and US resident vs non resident.

In a typical Canadian context, the trust will usually be a non-resident or foreign non-grantor trust.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Grantor Trust

Income / gains of trust taxable to grantor.

Normally grantor is settlor or contributor of property.

© C/A Professional Seminars 2021

With a grantor trust, all income and gains of the trust are imputed to and taxable in the hands of the grantor. Also, any tax paid, and other tax relevant transactions (such as donations) are considered those of the grantor. Normally the grantor is the settlor or contributor of property to the trust.

In a US context, grantor trusts have certain benefits, and are commonly used. Also, trusts created by US persons typically are grantor trusts initially by definition. The definition is much more limited in a foreign context.

When the grantor dies the trust becomes non-grantor.

The Troublesome U.S. Beneficiary

U.S. Resident Trust

U.S. trustee and all major decisions made by U.S. persons.

Otherwise trust is non-resident.

© C/A Professional Seminars 2021

A US trust is a trust which has a US trustee and all major decisions are made by US persons. In addition, the trust must agree to submit to the jurisdiction of a US court. The failure to meet these requirements will result in the trust being non-resident. It is therefore possible for a trust to be established with a US trustee, but for the trust not to be US resident.

The Troublesome U.S. Beneficiary

Foreign Trust

Foreign trust (e.g. Canadian trust or estate) is non-grantor usually.

Inter vivos trust is grantor only if:

- revocable by contributor or
- only persons who can benefit are contributor and spouse during contributor's lifetime

Estate always non-grantor

© C/A Professional Seminars 2021

A foreign trust is a trust which is not a US resident trust. Typically a Canadian resident trust will be a foreign non-grantor trust. However, it might be a grantor trust if it is an inter vivos trust and either revocable by the contributor or the only persons who can benefit during the life of the contributor are the contributor and the contributor's spouse.

An estate will always be viewed as non-grantor. However, for the first 1-2 years of the administration of the estate, it may not be considered a trust as defined for US purposes. This has relevance to the UNI rules discussed later.

In a Canadian context the following trusts may be grantor:

- Alter ego trust
- Joint spousal trust
- Spousal trust
- Revocable trust

The Troublesome U.S. Beneficiary

Example:

Clive, Canadian resident, sets up Canadian resident trust, C Trust.

C Trust irrevocable.

Beneficiaries are sons David, Duncan and Dino. Dino is U.S. resident.

C Trust is foreign non-grantor trust for U.S. purposes.

© C/A Professional Seminars 2021

Clive, a Canadian resident, sets up a Canadian resident trust the C Trust. The trust is irrevocable. There are three beneficiaries. His sons David, Duncan and Dino. Dino is US resident.

The C trust is a foreign non-grantor trust for US tax purposes. It is foreign because it does not meet the conditions to be US resident, and it is non-grantor because it is neither revocable nor is Clive (together with his spouse) the lifetime beneficiary.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

U.S. Taxation Foreign Non-Grantor Trust

No U.S. tax to U.S. beneficiary until distribution.

On distribution, ordering rule applies:

First DNI	Distributable net income, current year income
Second UNI	Undistributed net income, income of previous years retained
Third Corpus	Original capital

© C/A Professional Seminars 2021

The US does not directly tax a foreign non-grantor trust. There is no US tax generally speaking to a beneficiary until there is a distribution (there can be an exception with respect to certain subpart F income from a controlled foreign affiliate. This is discussed later.)

When there is a distribution, the US rules provide for a set ordering of the distribution. Firstly, the DNI or Distributable Net Income is distributed. This is the income of the current year. It retains it's nature. Second the UNI is distributed. This is the Undistributed Net Income, or income that has been retained from previous years. This does not retain its nature, and is taxed as regular income. Thirdly, the original capital or corpus is distributed, which is tax free.

The Troublesome U.S. Beneficiary

DNI

Current year income.

Retains its nature (e.g. qualifying dividend or long term capital gain).

© C/A Professional Seminars 2021

For current year income, paid in the year or within 65 days after the end of the year, or made payable by that time, income is carried out. Importantly, qualifying dividends and long term capital gains retained their nature to be taxed at a more favorable US federal rate.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

UNI

Income of previous years.

Taxed as regular income to U.S. beneficiary on distribution.

Interest charge added (if income earned 3 years ago then 3 years of interest).

Can be highly adverse.

© C/A Professional Seminars 2021

The UNI, being the income accumulated in previous years, is paid out next and taxed as regular income. It does not matter if this income is designated as capital for trust law purposes, it is still taxed as regular income when received by the US beneficiary. In addition, an interest charge is added. If the income was earned say three years ago, the tax rate that would have been paid by the US beneficiary at that time is determined, and the income is taxed as if it were added to that year’s income. Then an interest rate is charged for the deferral. This can produce a highly adverse result particularly if the income was earned many years ago and if it did not bear a significant rate of foreign tax.

Foreign tax paid by the trust on foreign income can be claimed as a foreign tax credit.

The Troublesome U.S. Beneficiary

Corpus

Original capital.

Received tax free.

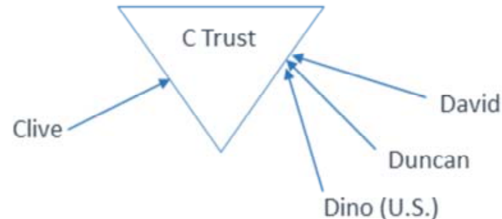
© C/A Professional Seminars 2021

In an inter vivos trust, often the corpus is a relatively small amount, sometimes nominal as in the case of an estate freeze. However, with an estate, often the corpus will be very substantial, and therefore this becomes important in the overall analysis.

After the DNI and the UNI is paid out, the corpus can be received by a US beneficiary tax free.

The Troublesome U.S. Beneficiary

C Trust Example:



C Trust is foreign non-grantor trust.

Assume C Trust realized proceeds in 2016 of $3,300,000, cost $300,000, paid tax of $750,000 in Canada. Did not distribute.

Corpus (original cost) was $300,000 contributed by Clive.

© C/A Professional Seminars 2021

22 Cadesky Tax Experience. Excellence. Delivered. 22

Returning to the example of Clive and the C Trust, we established that this trust is a foreign non-grantor trust. Assume that it realized a capital gain in 2016 of $3 million. Assume that the original capital or corpus was $300,000 contributed by Clive. Further assume that tax was paid in the trust on the capital gain, with that tax being $750,000 (25% of the capital gain).

The Troublesome U.S. Beneficiary

C Trust Example – cont'd :

Cash on hand $2,550,000 after tax.

Distribution to children 1/3 each in 2021.

What is tax to Dino?

© C/A Professional Seminars 2021

The cash on hand is $2,550,000, composed of the capital gain of $3 million, the original capital of $300,000 (which became the cost of the asset disposed of, and is derived from the original corpus) and $750,000 of tax paid.

In 2021 there is a distribution to each of the children. The question is what is the US tax to Dino.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

C Trust Example – cont'd :

Dino receives $850,000.

This is composed of:

Income	$ 1,000,000
Tax	($ 250,000)
Corpus	$ 100,000
	$ 850,000

© C/A Professional Seminars 2021

Dino receives $850,000. This is determined to be $1 million of capital gain, $100,000 of corpus, less the tax of $250,000 (his 1/3 share).

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

C Trust Example – cont'd :

Dino Reports Regular Income	$ 1,000,000
U.S. Federal Tax (at top rate) – 37%	$ 370,000
Foreign Tax Credit	$ 250,000
Net U.S. Federal Tax	$ 120,000

Interest Added (2016 – 2021)

© C/A Professional Seminars 2021

Dino reports $1 million as UNI which is regular income. His federal tax, if he is of the top tax bracket, would be $370,000. He is entitled to a foreign tax credit for his share of the Canadian tax paid by the trust, being $250,000. He has additional US tax of $120,000. On this interest would be added from 2016 to 2021.

State tax may also apply.

Many states do not grant a foreign tax credit.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Planning - C Trust

Suppose David and Duncan receive distribution in 2021. Dino receives in 2022.

Now UNI carried out first to David and Duncan, leaving corpus to Dino. Note ordering rule.

© C/A Professional Seminars 2021

Certain planning is possible for the C Trust because of the ordering rule which considers DNI to come out first, UNI second and corpus third.

Supposes that David and Duncan receive their distribution in 2021 and Dino receives his in 2022. The distributions to David and Duncan would carry out UNI (there is no DNI), leaving a greater share of corpus for Dino.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Planning C Trust cont'd

Payment	$ 850,000
Corpus	$ 300,000
UNI	$ 800,000
Tax	($ 250,000)
	$850,000

Income	$ 800,000	
Tax (37%)	$ 296,000	
Foreign Tax Credit	($ 250,000)	
Net U.S. Tax	$ 46,000	Modest Savings

© C/A Professional Seminars 2021

27 27

Since no corpus was paid out to David and Duncan (they received UNI), all of the corpus remains on hand. Therefore, Dino's payment of $850,00 must be composed of $300,000 of corpus. The UNI must be $800,000 because his brothers each received $1.1 million dollars of UNI in the previous year. His US tax is reduced because an extra $200,000 of the distribution is now tax free rather than being UNI.

This illustrates an important point, UNI streaming. If Clive had created 3 trusts, one for each child, this plan would not be possible.

Working out the UNI is complex and the trustee is required to provide the calculations. If Dino was Canadian resident in 2016 and then moved to the US, he still has UNI.

The Troublesome U.S. Beneficiary

Example:

Elaine, Canadian resident, dies, sets up estate (E Estate).

E Estate has beneficiaries Freda, U.S. resident, and Canadian resident Fred.

E Estate is foreign non-grantor trust.

Special rule for estate, no UNI for 1 or 2 years while estate under administration.

© C/A Professional Seminars 2021

28

Cadesky Tax
Experience. Excellence. Delivered.

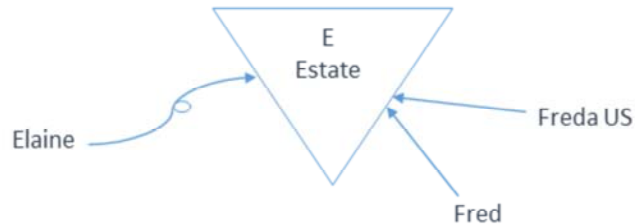
28

Elaine, a Canadian resident, dies and transfers her assets by will to a Canadian resident estate. Her two children, Freda (US) and Fred (Canadian) are the beneficiaries.

The estate is a foreign non-grantor trust. There is a special rule that no UNI arises in the first one or two years while the estate is under administration.

The Troublesome U.S. Beneficiary

E Estate Example:



Elaine dies, creates E Estate. Beneficiaries Fred and Freda (US).

E Estate has corpus (cash) of $1 million and life insurance proceeds $2 million.

Earns $300,000 over 2 years on investing funds, pays out everything in year 3.

© C/A Professional Seminars 2021

Assume that her estate consists of $1 million of cash and $2 million paid out under a life insurance policy. Because of this, Elaine has no capital gains tax at death, and there is no post mortem estate planning which has to be done. Assume further that the estate earns $300,000 over two years on investing its funds, and then pays everything out in year three.

The Troublesome U.S. Beneficiary

E Estate Example – cont'd:

Freda has:

Income (not UNI or DNI)	$ 150,000
Corpus (tax free)	$ 1,500,000

No tax to Freda in U.S.

© C/A Professional Seminars 2021

Ignoring the payment of Canadian tax which would arise on the income of the estate (for simplicity), Freda receives $150,000 being the income earned in years one and two and $1,500,000 being corpus. Corpus is clearly tax free. Curiously the $150,000 that Freda receives is also considered tax free because it is not current year income (DNI) and because it was earned in the first two years of the estate, so it is not UNI. Therefore she does not pay any tax in the US.

This illustrates an important planning opportunity to avoid US tax on income earned in the estate. But it may result in Canadian tax paid by the estate.

The Troublesome U.S. Beneficiary

What Works Well

Canadian tax at rate comparable to tax rate U.S. person would pay. Gets FTC.

Distribute each year from DNI (retains its character).

Stream UNI to Canadian resident persons first (previous year).

Estate with no UNI, accumulate in year 1 and 2, pay later.

© C/A PROFESSIONAL SEMINARS 2021

31

Based on the previous examples, the following should be noted:

1. If the Canadian tax is comparable to the US tax that a US person would have paid on receiving the income (taxed at regular rates), then there should not be much US tax, and possibly none after foreign tax credit.
2. Income of the current year can be distributed and retains it's character which is particularly useful for long term capital gains and qualifying dividends.
3. If there is a build up of UNI from previous years, and there are multiple beneficiaries (some US and some Canadian), the UNI can be "streamed" first to the Canadian residents, and then to the US persons in the following year.
4. No US tax arises on a distribution from an estate representing income earned in the first one or two years of the estate, distributed in the following year. However, Canadian tax would be payable.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

What Doesn't Work Well

Components of income with low or no Canadian tax (capital gains and capital dividends).

Long term accumulation (interest charge)

© C/A Professional Seminars 2021

There are many situations where the rules will not work well, and will produces an adverse result. This is particularly the case when the issues are not identified. You cannot plan for what you don't know.

Accumulating income in a Canadian trust, and paying it several years later will be problematic particularly if the Canadian tax rate on the income is low. Capital gains will produce a lower tax rate than the top US rate on regular income. Capital dividends will not be taxable at all, but have no special treatment for US tax purposes.

Sometimes trusts accumulate income over many years, and the longer the period of accumulation, the higher the interest charge.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

What Doesn't Work Well

Example:

George owns an investment portfolio in G Co $2 million.

Also in G Co is life insurance policy on George's life $1 million.

Beneficiary is Henry, a U.S resident.

© C/A Professional Seminars 2021

George owns an investment portfolio held in G Co, a Canadian corporation. The value is $2 million. In addition, G Co owns a life insurance policy on George's life. Henry, his son, is the beneficiary of his estate and is US resident.

This example should look similar to that of Elaine, except that the value is held in a holding company, G Co.

The Troublesome U.S. Beneficiary

What Doesn't Work Well – cont'd

Example:

G Co:

Cost of G Co Shares	Nominal
FMV of Portfolio	$ 2 Million
Cost of Portfolio	$ 400,000
Life Insurance (term policy, no basis)	$ 1 Million

© C/A Professional Seminars 2021

Assume that the cost of the G Co shares is nominal, and the value of the portfolio is $2 million. Further assume that the cost of the various securities in the portfolio is $400,000.

Lastly, the life insurance policy is a term policy, with no basis.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

What Doesn't Work Well – cont'd

Example:

George has capital gain at death $2 million (no value placed on insurance policy).

Tax to George $500,000 (approx.). Paid from other assets.

Estate carries out step-up plan (steps up value of portfolio in G Co to $2 million).

G Co is liquidated. Pipeline transaction.

© C/A Professional Seminars 2021

George would have a capital gain on death of $2 million. No value is placed on the life insurance by virtue of a special valuation rule.

George would pay approximately $500,000 of capital gains tax. Assume for simplicity that this is paid from other personal assets that he has.

The estate can consider two possible post mortem estate planning strategies; the step up and pipeline, or alternatively a redemption and capital loss carry back.

Assume for various reasons that the step up and pipeline is selected. In practice, the two alternatives would have to be carefully evaluated.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

What Doesn't Work Well – cont'd

Example:

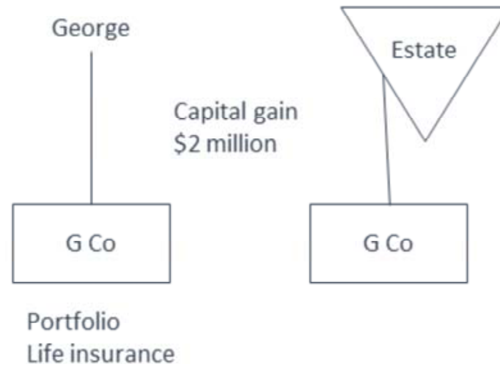
Tax-Free Proceeds	$ 2 Million
CDA (Life Insurance)	$ 1 Million

© C/A Professional Seminars 2021

The estate would receive tax free proceeds from liquidation of the portfolio of $2 million, and a capital dividend of $1 million from the life insurance.

In all $3 million is distributed to the US beneficiary Henry.

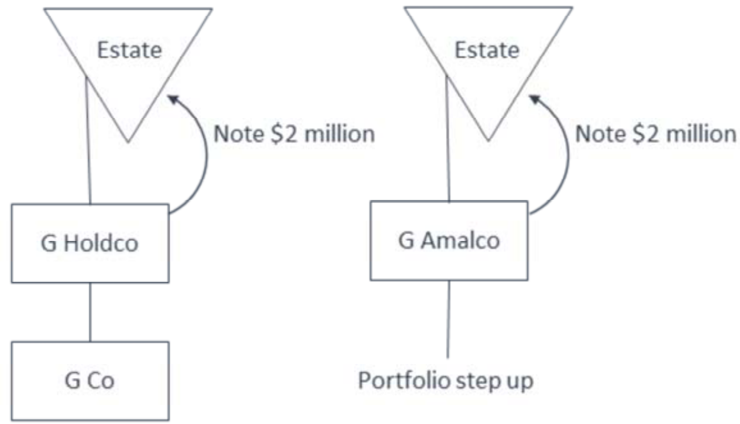
The Troublesome U.S. Beneficiary



© C/A Professional Seminars 2021

This shows George owning G Co which has within it the portfolio and the life insurance. George dies and G Co becomes property of his estate. There is a capital gain at death of $2 million. The shares of G Co now have a cost base of $2 million.

The Troublesome U.S. Beneficiary

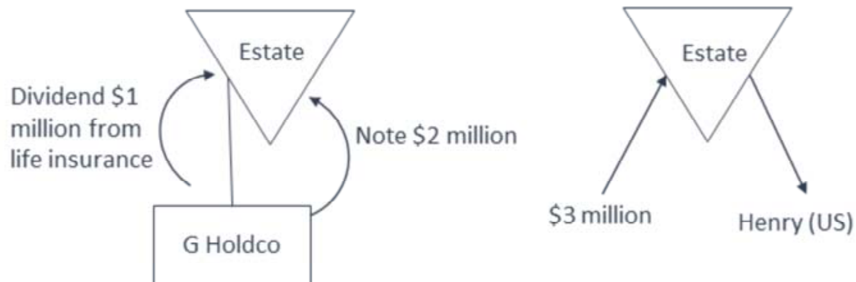


© C/A Professional Seminars 2021

38

The estate transfers the shares of G Co to G Holdco in exchange for a note for $2 million then G Holdco and G Co are amalgamated to form G Amalco, which gets a step up in the cost base of the portfolio securities to the fair market value at the date of death. This eliminates the capital gains tax on sale of the investment assets. The note is limited to $2 million, being the adjusted cost base of the shares, and not $3 million being the fair market value which would be derived including the life insurance policy.

The Troublesome U.S. Beneficiary



© C/A Professional Seminars 2021

A dividend of $1 million is paid from the life insurance proceeds which is a capital dividend. The note is also paid off, so that the estate now has $3 million. It is distributed to Henry.

The Troublesome U.S. Beneficiary

What is Tax to Henry?

Henry may or may not be taxable.

If Estate receives CDA dividend and liquidation proceeds, distributes in same year, taxable to Henry as DNI.

If Estate accumulates in year 1 distributes in year 2 not taxable to Henry (UNI does not apply in year 1 (maybe year 2) of estate).

Estate has 15% withholding tax on $1 million CDA distribution.

© C/A Professional Seminars 2021

The questions is what is the tax to Henry on receiving the distribution.

If Henry receives the $3 million distribution in the same year that the dividend is paid, then this will be considered DNI for US tax purposes, and he will pay tax on the capital dividend.

Whether the distribution occurs in the same year that the estate receives the funds or in a later year, there will still be withholding tax on the $1 million derived from the capital dividend. Since Henry is a US resident, the withholding tax would be 15%.

There is a major advantage to delaying the distribution to Henry by one year.

The Troublesome U.S. Beneficiary

CFC/PFIC/GILTI

CFC - Controlled Foreign Corporation

PFIC - Passive Foreign Investment Corporation

GILTI - Global Intangible Low Taxed Income

For US Purposes , Canadian corporation is foreign.

3 types of income produce bad results for US person.

© C/A Professional Seminars 2021

The US has a complex set of rules for how it taxes foreign corporations. Three terms are relevant here.

The term CFC or Controlled Foreign Corporation is similar to the Canadian rule of controlled foreign affiliate.

Canada does not have an equivalent of PFIC or Passive Foreign Investment Corporation.

Lastly there is the GILTI, Global Intangible Low Taxed Income, which is relevant for determining whether or not there is an income inclusion.

Having any of these entities/types of income usually leads to a bad result for a US person.

Note that for US purposes a Canadian corporation is considered foreign. While this would seem obvious, it is not the way we, as Canadians, are used to thinking about a Canadian corporation.

The Troublesome U.S. Beneficiary

CFC

CFC is foreign corporation where US person has control or over 50% ownership by value

Complex rules

Passive income and capital gains imputed to US shareholder as regular income.

© C/A Professional Seminars 2021

A CFC is a foreign corporation where a US person either has control or greater than 50% ownership by value. There are complex rules for attributing ownership between related parties. There are even more complex rules for determining ownership when the corporation is held by a trust.

Importantly, passive income and capital gains of the CFC (subpart F income) will be imputed to and taxed in the hands of the US shareholder as regular income. Unfortunately, no special treatment is allowed for capital gains. In addition, in general no foreign tax credit is given for the corporate tax. No tax is payable on a later dividend.

It is possible to make a special election (section 962 election) to pay tax at the federal corporate tax rate, in which case an individual can claim a foreign tax credit for the corporate tax. However, this results in double taxation because when a dividend is later taken, this dividend will be taxable. Whether or not to make the section 962 election requires a complex evaluation.

If the tax rate is at least 90% of the US corporate rate (21% x 90% = 18.9%), income is not subpart F.

The Troublesome U.S. Beneficiary

PFIC

Foreign corporation where over 50% of assets or 75% of revenue passive.

No minimum ownership

Dividend taxed as regular income when received by US shareholder

© C/A Professional Seminars 2021

A PFIC is a foreign corporation where over 50% of the assets or 75% of the revenue is passive, as defined. There is no minimum ownership. However, a corporation which is a CFC will not be a PFIC.

Although the PFIC rules do not result in an imputation of income each year (so they differ from the CFC rules in this way), the income is taxed as regular income and in some cases an interest charge can be applied.

Capital gains on sale of shares of a corporation that is a PFIC are taxed at regular income rates.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

GILTI

Active income taxed at low rate (below 13.125%) then income imputed to US shareholder.

Complex calculations.

© C/A Professional Seminars 2021

CADESKY TAX
EXPERIENCE. EXCELLENCE. DELIVERED.

44

GILTI is active income taxed at a low rate, defined to be lower than 13.125%. Then a portion of this income is imputed to the US shareholder. This is an anti-deferral rule so that the US shareholder has to report the income, even though it is active income, simply because the tax rate is too low. This requires going through complex calculations.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Example - CFC

Howard, a US resident, issued 100% of common shares of H Co, a Canadian corporation

Preferred shares held by father, Harold, Canadian resident.

Over time Howard's common shares became worth over 50% of H Co.

Result

H Co becomes CFC to Howard.

© C/A PROFESSIONAL SEMINARS 2021

Howard a US resident was issued 100% of the common shares of H Co a Canadian company in an estate freeze transaction. The preferred shares are held by his father, Harold, who controls the corporation.

Initially H Co would not be a CFC, because the common shares were worth a nominal amount. Assuming H Co is an active business, it would also not be a PFIC. Assuming that Canadian tax was paid of at least 13.125%, there would be no inclusion for Howard of income on his common shares.

Over time, as the value of H Co grows, it could become a CFC to Howard if and when the common shares become worth over 50% of the total value of the shares.

The Troublesome U.S. Beneficiary

Example – CFC Cont'd

H Co holds real estate, sells a building, has gain of $1,000,000.

Gain allocated to preferred and common shares.

Part of gain imputed to Howard

© C/A Professional Seminars 2021

Assume that H Co holds real estate and sells a building. It has a capital gain of $1 million. For US tax purposes, that capital gain would be allocated to the preferred and common shares. If H Co is a CFC to Howard, then part of the gain would be imputed to Howard.

There is an exception from the CFC rules if the corporation pays tax at least 90% of the US federal tax rate. Therefore, since the US corporate federal tax rate is currently 21%, if H Co paid tax of at least 18.9%, then no amount would be imputed to Howard. However, a capital gain net of dividend refund, would attract a Canadian corporate tax rate of around 10%, so this exception would likely not be available.

Rental real estate is active for US tax purposes if all significant aspects of management are carried out by the company's own employees. Otherwise it is passive.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Example – PFIC

Suppose Howard's common shares are worth only 20%.

Some facts otherwise.

H Co is PFIC if rental income is passive. Howard's dividend taxed as regular income.

© C/A Professional Seminars 2021

If H Co is not a CFC, it could nevertheless be a PFIC to Howard. If it carried on a rental business, then it is necessary to determine whether the rental business is an active business or a passive business from a US tax perspective.

If the rental is passive H Co is a PFIC to Howard. Dividends are taxed as regular income (and an interest charge may apply).

An election could be made for H Co to be regarded as a flow-through (QEF election).

The Troublesome U.S. Beneficiary

Example – GILTI

Suppose Howard owns 100% of common shares of H Management Co., a management company controlled by father Harold.

H Management Co claims SBD. Tax rate 12.2%

Howard has income imputed because tax rate below 13.125%

© C/A Professional Seminars 2021

48

48

Suppose Howard owns 100% of the common shares of H Management Co., which is a management company or a consulting company. It is controlled by father, Harold. It earns income subject to the small business deduction, and pays a tax rate of 12.2%.

Because the tax rate is lower than 13.125%, the threshold for GILTI, there is an income pick up to Howard for US tax purposes. The exact calculation is beyond the scope of these materials.

One alternative, which would avoid the income pick up, is if the claim for the small business deduction was reduced, to arrive at a tax rate of 13.125%.

If the US corporate tax rate increases, it may be that the tax rate for GILTI will also increase, which will make this type of planning more difficult.

The Troublesome U.S. Beneficiary

Avoiding CFC, PFIC, GILTI

Need to analyze rules, income etc. to determine impact.

Complex evaluation

Often produces bad result (higher tax rate or double tax).

Consider flow-through entity.

© C/A Professional Seminars 2021

Cadesky Tax

Experience. Excellence. Delivered.

It is necessary to be aware of the CFC, PCIC and GILTI rules, in order to evaluate their impact for a US shareholder. The rules are very complex, and where they are applicable, they generally produce a bad result.

Instead of having to analyze these rules, determine the result, and them consider planning to minimize the negative implications, it may be better to avoid the rules entirely using a flow through entity.

The Troublesome U.S. Beneficiary

Check-The-Box

US tax system favours personal ownership.

Why

- avoids double tax
- lower tax rate on some income
- Avoids CFC/PFIC/GILTI issues in foreign area

Can designate a company to be flow through entity

Single owner – disregarded

2 or more owners - Partnership

© C/A Professional Seminars 2021

The US tax system generally favours personal ownership rather than corporate ownership. The rules are simpler, and usually produce a better result or at least a comparable result.

More specifically, a flow through entity avoids double taxation (once at the corporate level and then again at the personal level), may result in a lower tax rate on certain types of income, especially capital gains, and avoids all of the issues dealing with CFC, PFIC and GILTI.

For this purpose, it is possible to designate a company to be a flow through entity in certain situations.

If the company has a single owner, then it is considered a disregarded entity. For US tax purposes it is ignored. If it has two or more owners, then it is viewed as a partnership.

The Troublesome U.S. Beneficiary

Common Entities

US LLC	- flow through unless elected to be corporate
US Corporation	- always corporate (except S election)
Canadian corporation	- always corporate
Canadian ULC	- flow through unless elected to be corporate
US partnership	- flow through unless elected to be corporate

© C/A Professional Seminars 2021

Certain entities are always corporations, and cannot be flow through entities. A US corporation will be corporate (i.e. not a flow through entity) unless an S election is made which can only apply in limited situations particularly when ownership is by US persons.

A Canadian corporation is always considered corporate for US tax purposes.

A US LLC is, by default, a flow through entity unless it elects to be considered a corporation for US tax purposes.

A Canadian ULC is a flow through entity, unless it elects for US tax purposes to be considered corporate.

A partnership, US or Canadian, will be a flow through entity unless it elects to be corporate.

The Troublesome U.S. Beneficiary

ULC

Company established in Nova Scotia, Alberta, BC

For Canadian tax purposes corporate

For US tax purposes flow through by default unless elected to be corporate.

© C/A Professional Seminars 2021

A ULC is an unlimited liability company. For Canadian tax purposes, it is taxed as a corporation. For US tax purposes, it is taxed as a flow through entity unless it elects to be taxed as a corporation.

These entities can be established by company law in Nova Scotia, Alberta or British Columbia.

It is important to appreciate that these entities do not offer limited liability for the shareholders. Therefore they have to be used with caution.

It is possible to convert a Canadian corporation into a ULC, without Canadian tax consequences. However, for US tax purposes, this is considered a liquidation.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Example - ULC

Ivy, a US resident, obtains 20% of shares in I ULC.

I ULC has passive assets, would be PFIC if a corporation.

Income

Interest	$600,000
Dividends	$200,000
Capital Gain	$300,000
Corporate Tax	$300,000

© C/A Professional Seminars 2021

CADESKY TAX
Experience. Excellence. Delivered.

Ivy, a US resident, obtains a 20% interest in I ULC, a Canadian ULC. Assume that I ULC has passive assets, and derives passive income. It would be a PFIC if it were treated as a corporation for US purposes.

For Canadian tax purposes, it is taxed as a corporation. It earns investment income, interest, dividends and capital gains, and pays Canadian corporate tax. If it is a CCPC, then it would be taxed under the RDTOTH system.

The Troublesome U.S. Beneficiary

Example – ULC Cont'd

Ivy reports for US tax purposes:

Interest	$120,000
Dividends	$ 40,000
Capital Gain	$ 60,000

Ivy may claim $60,000 as foreign tax paid.

Ivy does not report income when I ULC pays dividend. 15% withholding tax charged by Canada also foreign tax paid

© C/A Professional Seminars 2021

Cadesky Tax
Experience. Excellence. Delivered.

54

Ivy reports for US tax purposes her proportionate share of interest, dividends and capital gains, which preserve their nature for US tax purposes. Ivy may also claim her proportionate share of the Canadian corporate tax paid, as a foreign tax credit.

When Ivy receives a distribution from IULC, this is not considered income. Although for Canadian tax purposes it would be considered a dividend, it has no significance for US tax purposes.

A 15% withholding tax would apply, although the dividend has to be carefully arranged because of certain anti-hybrid rules in the Canada-US treaty. If these are not handled properly, then a 25% withholding tax would apply.

Ivy can also claim the 15% withholding tax as a foreign tax credit for US purposes.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

ULC Planning

Canadian corporation can be converted to ULC.

Tax –free in Canada

In US, a liquidation

Note no limited liability protection.

Suitable for investments, holding company, generally not for operating business.

© C/A Professional Seminars 2021

A Canadian corporation can be converted into a ULC by first migrating the company to the jurisdiction (Nova Scotia, Alberta or British Columbia) and then continuing the corporation as a ULC. This is a tax free transaction in Canada.

For US purposes, this would be considered a liquidation, so if there is a US shareholder, or a trust which owns the Canadian corporation, the liquidation may have significance, and give rise to a current or future tax liability.

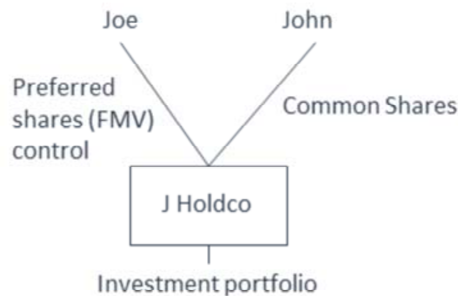
Because a ULC does not offer limited liability protection for the shareholders, it is not suitable generally for an operating business. However, it could be suitable as an investment holding company, or possibly for ownership of real estate. It is also possible for a US shareholder to own the ULC through a US corporation which elects to be treated as an S Corporation, in which case there would be limited liability at the S corporation level.

The Troublesome U.S. Beneficiary

Case Study

Joe sold his business and has funds in J Holdco. Joe wants to help his US resident son John financially and let him "have" future income from J Holdco.

Joe's Proposal:



© C/A Professional Seminars 2021

Joe, a Canadian resident, sold his business and received the proceeds in a holding company, J Holdco. Joe wants to help out his US resident son, John, and let him have the future income, or some portion of it, from J Holdco.

His idea is to carry out an estate freeze type transaction, whereby Joe exchanges his common shares into preferred shares, and new common share are issued to John. Then dividends can be paid in the future on the common shares to John.

The Troublesome U.S. Beneficiary

Result

J Holdco is a PFIC to John.

Poor tax result for John.

© C/A Professional Seminars 2021

As a result of this arrangement, J Holdco becomes a PFIC to John. This is likely going to produce a poor result for John from a US tax perspective.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Recommendation

J Holdco converts to a ULC. John has income directly (for US purposes).

John and Joe can "work together" on capital gains.

Joe gets CDA, John has taxable dividend, J Holdco gets dividend refund.

© C/A Professional Seminars 2021

After receiving advice, Joe elects to convert J Holdco into a ULC. This can be done in Canada tax free. Then shares are issued to John. From a US tax point of view, J Holdco is a partnership and John reports the income and capital gains in J Holdco, to the extent of his proportionate share.

Joe and John can work together on tax planning, particularly with respect to capital gains. If J Holdco has a capital gain, Joe can get the CDA and John can receive the taxable dividend. J Holdco would then get a dividend refund, without John being subject to a high rate of Canadian tax. John would have a 15% withholding tax on the dividend distribution. John would report the capital gain, and claim a credit for the Canadian corporate tax and the withholding tax on the taxable dividend. This could produce a very good result overall for the family.

The Troublesome U.S. Beneficiary

Case Study 2

Kathy (widow) owns K Co, an active business. She received dividends. To save probate fees Kathy sets up K Trust, an alter ego trust.

Kathy pays tax on all income and gains of K Trust.

Kathy is age 70.

K Co expected to grow in value.

Son Kevin lives in US. Plan is to sell K Co when Kathy dies.

© C/A Professional Seminars 2021

In this example, Kathy who is a widow owns 100% of K Co which is an active business. She receives dividends every year, and lives on these dividends as her source of income.

In order to save probate fees, Kathy set up the K Trust as an alter ego trust. She is the beneficiary for her lifetime, and after that her son Kevin will be the beneficiary.

Kathy pays tax on all of the income and gains of K Trust, being in particular, the dividends paid by K Co, and any gains from the sale of K Co.

K Co is expected to grow in value. When she dies, the company will be sold producing a capital gain.

Son Kevin lives in the US. The idea is to plan for an appropriate result on the sale of K Co when Kathy dies.

The Troublesome U.S. Beneficiary

Issue

On death K Trust has capital gain.

But what is US tax treatment of later sale?

© C/A Professional Seminars 2021

Because K Trust is an alter ego trust, on Kathy's death, K Trust will have a capital gain. The trust itself will pay tax on the capital gain. The question is what happens for US tax purposes when there is a later sale.

For Canadian tax purposes, the shares of K Co will have a fair market value tax cost and any gain or loss on sale will be computed from that stepped up cost. However, for US tax purposes, there may not be a step up. This would lead to double taxation.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Analysis

No UNI in K Trust because foreign grantor trust while Kathy alive. So no build-up of UNI for Kevin.

But on death no step-up for US tax purposes, leads to double tax:

- Tax in Canada on Kathy's death
- Tax to Kevin on sale

© C/A Professional Seminars 2021

61

Because Kathy has a life interest in K Trust, it is a foreign grantor trust while Kathy is alive. On her death it becomes a foreign non grantor trust. While it is a foreign grantor trust, there is no UNI in the trust because all of the income is considered, for US tax purposes, to belong to Kathy and not the trust.

While there is a capital gain in the trust on Kathy's death, this is a result of a deeming rule in Canada, and does not have US tax significance. Therefore it could lead to double taxation, because for US tax purposes there is no step up. Thus Kevin could be taxable in full on a sale of K Co. This is not a good result for Kevin.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Solution

Kathy has power of appointment to designate K Trust beneficiary.

Then operates as if by will for US tax purposes.

Gives step-up in US

© C/A PROFESSIONAL SEMINARS 2021

If Kathy is given a power of appointment to designate the beneficiary of K Trust by her will after her death, then for US tax purposes, this is considered to be a testamentary disposition. In other words, it operates as if her will governed the tax treatment. This gives a step up in cost for US tax purposes, and solves the double tax issue for Kevin.

The Troublesome U.S. Beneficiary

Case Study 3

Len sets up L Trust for US son Larry, put in common shares of L Co.

L Co. holds insurance policy on Len of $5 million.

Len dies. L Co shares redeemed, capital dividend paid to L Trust.

Dividend paid out to Larry.

© C/A Professional Seminars 2021

In this case study, Len sets up the L Trust for his son Larry who lives in the US and puts common shares of L Co into the trust. This might have been done on an estate freeze, or possibly the structure has been in place for many years. L Co holds an insurance policy on Len's life with the death benefit being $5 million.

Len dies and the L Co shares are then redeemed through a payment of a capital dividend to L Trust. The capital dividend is then paid out to Larry, the US resident.

The Troublesome U.S. Beneficiary

Result

Larry has dividend taxable in US (possibly at 20% + 3.8%)

Bad result

© C/A Professional Seminars 2021

The trust is a foreign non grantor trust. Larry has received a dividend distribution from this trust. The dividend is taxable in the US if received in the current year, and if received in a future year, it will be a distribution of UNI.

If received in the current year, Larry may pay tax on the dividend at 23.8% federally. If received in a future year, Larry may have regular income for US tax purposes.

Either way this is a bad result, because life insurance proceeds are suppose to be tax free.

© C/A Professional Seminars 2021

The Troublesome U.S. Beneficiary

Planning

Len gets advice on US tax issues.

L Co converted to ULC.

L Co ignored for US tax purposes.

Dividend paid by L Co to L Trust ignored.

Larry receives trust distribution tax-free (no tax in Canada as CDA, dividend, no tax in US as considered tax-free payment of life insurance proceeds)

© C/A Professional Seminars 2021

65

65

Len gets advice on US tax issues, and converts L Co into a ULC before it is transferred to the L Trust. As a result, L Co is ignored for US tax purposes. When the life insurance proceeds are paid out as a capital dividend to L Trust, the dividend is ignored, because the insurance policy is considered to be owned by the trust for US tax purposes. Larry then receives the distribution tax free, because it is not income to L Trust.

There would be no tax in Canada as the dividend is a capital dividend. There would be no tax in the US because the dividend is ignored. There would however be non resident withholding tax at 15% on the distribution.

The Troublesome U.S. Beneficiary

What Have We Learned

1. Canadian and US tax systems fundamentally different in many ways
2. Trusts problematic due to UNI rules. Complex calculations.
3. UNI issue can be solved sometimes by streaming first to non-US beneficiaries.
4. Step up in ACB different, gift v. on death. Can lead to double tax
5. Alter ego, joint spousal trust, spousal trust don't give step-up on death for US purposes unless steps taken to address.

© C/A Professional Seminars 2021

A great deal of material has been covered, much of which will be new to Canadian CPA's that do not have experience in this area. It is worthwhile to pause and look at what has been learned from the various examples.

1. The Canadian and US tax systems are fundamentally different in many ways. While this can result in advantages, typically if the situation is not carefully planned, it results in double taxation and sub optimal results.
2. Trusts can be problematic in many ways, particularly because of the UNI rules. While a Canadian resident trust may not result in immediate tax problems, on a distribution of accumulated income, there can be very adverse US tax results.
3. There is planning which can be done for UNI. One possibility is to stream UNI to non-US beneficiaries before paying out the balance to US beneficiaries. This is particularly effective if there is significant corpus (often in the context of an estate).
4. The rules concerning a step up in cost or ACB differ in the US from that of Canada. Deemed dispositions from a gift, death (in the case of an alter ego, joint spousal or spousal trust) and the 21 year rule do not result in a step-up for US tax purposes. This can lead to double taxation.
5. Particularly with alter ego, joint spousal and spousal trusts, no step-up arises for US tax purposes on death, unless steps are taken to address this. One possibility is to grant the settlor a power of appointment by will to direct who the beneficiary will be.

The Troublesome U.S. Beneficiary

What Have We Learned Cont'd

6. Canadian corporation can be problematic (CFC/PFIC/GILTI) with income imputation or tax as regular income
7. ULC can solve issues, result in tax-free treatment in US
8. Using planning techniques, can often create winning solution for Canadian and US beneficiaries

© C/A Professional Seminars 2021

6. Canadian corporations can be problematic for US shareholders under three sets of rules, the CFC rules, the PFIC rules, and the GILTI rules. This can result in an imputation of income, or taxation as regular income, and sometimes both.
7. Using a ULC can solve these issues, and result in tax free treatment in the US or at least a flow through treatment which minimizes US tax. The ULC can be established tax free for Canadian tax purposes, by converting a regular Canadian corporation to a ULC.
8. Using the various planning techniques, this can often create a winning solution both for Canadian and US beneficiaries.

The Troublesome U.S. Beneficiary

What Have We Learned Cont'd

9. Area is very complex. Very few people know Canadian **and** US rules will enough to develop effective plans
10. High value added area to clients
11. Important to properly identify problems/issues, then develop effective solutions

© C/A Professional Seminars 2021

Cadesky Tax
Experience. Excellence. Delivered.

9. This area is very complex. Very few people know both the Canadian and the US rules in enough detail to be able to develop effective plans. In addition, many people don't have any understanding of the US rules at all, and fail to even identify the issues.
10. This is a high value added area for clients who are keenly interested estate planning and are looking for solutions for US beneficiaries.
11. The first step in the process is always to identify the issues, because until they are identified, it is not possible, except by chance, to develop an effective solution.