INDEPENDENT THINKING

A NEW FIDUCIARY PERSPECTIVE

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Sixth Edition

CROSS-BORDER PLANNING FOR GLOBAL FAMILIES

Introduction

High-net-worth families are often spread across multiple countries, both in terms of individual residency and location of assets. Often, these families face a multitude of legal, tax, and investment challenges that are best addressed by a team of advisors and fiduciaries. Navigating the complexities of the U.S. tax, probate, and financial systems is already a challenge – add in a second (or third) jurisdiction and the risk of costly mistakes is multiplied. A coordinated and collaborative approach, with qualified advisors in applicable jurisdictions, is required.

Challenges:

Comprehensive Planning:

Due to the inherently complex nature of cross-border families, the initial review and planning process must be individualized – there is no "one-size-fits-all" solution. It requires a team of advisors who have not only the requisite technical knowledge and skill but also the willingness to devote sufficient time to the process to avoid the costly mistakes that can arise with this type of planning.

Flexible Administration:

Cross-border families are more likely to have unique assets and needs, including offshore companies and foreign-situs assets. They will also need to comply with the laws of both the United States and their home country. Accordingly, cross-border families often require a combination of U.S. and offshore custody, investment management and planning, and should look for a firm that can cover all bases, while coordinating with their existing team of advisors.

Robust Reporting and Compliance:

The presence of international components, whether assets, residency, or some other foreign nexus, often triggers unique or complex U.S. reporting requirements. There may also be reporting requirements in other jurisdictions, which are often complicated by differences in tax, legal, and accounting principles. This requires a firm with a strong tax and reporting infrastructure that is able to expand and adapt to meet the growing needs of cross-border families.

SCENARIO #1:

A husband and wife, one of whom is a U.S. citizen and one of whom is not, recently changed residency from the United States to another country. They had existing U.S. investment accounts and trusts that held both U.S. and non-U.S. assets. They were looking for a new financial institution – one that could serve as a "one-stop-shop" for both wealth management and fiduciary services – as their existing advisor could no longer service clients with cross-border connections.

SOLUTION:

We were able to complete the onboarding review, open the accounts, and transfer the assets in a timely fashion. This included a review of all existing investment accounts as well as the legal review and approval of the Delaware directed trust that held non-US assets. We also worked with their U.S. and non-U.S. advisors to review their existing plan to ensure that it met the family's current goals and covered all tax and estate planning concerns.

We are continually reviewing their charitable giving, retirement planning, and children's education planning to maximize the tax benefits in each country. We also work directly with their tax preparers to ensure that all trust and investment information being provided satisfies the tax and accounting rules of both jurisdictions.

SCENARIO #2

The patriarch of a large family, currently residing outside of the United States, wanted to fund U.S. trusts for the benefit of both U.S. and non-U.S. descendants during his lifetime. Each trust had to be unique, as beneficiaries are spread around the globe, and each had a different funding timeline and investment focus. The funding of each trust was required to also comply with both U.S. and foreign wealth tax systems to ensure there were no adverse tax consequences.

SOLUTION:

We worked with the client's outside counsel to draft the necessary trust instruments, which included specific language regarding residency of beneficiaries to maximize tax planning.

Furthermore, U.S. treasuries were chosen as the appropriate funding vehicle. We were able to work directly with the family's financial institution in their home country to seamlessly transfer the treasuries into the trust accounts before being liquidated, resulting in minimal U.S. transfer tax. Since Evercore Trust Company has the ability to both manage the assets and serve as a directed Delaware trustee, the overall investment portfolio included both U.S. investments managed by Evercore and directed investments held within an LLC.

Working with a global accountancy firm, we helped prepare the necessary tax filings for the initial trust funding. Together, we monitor and comply with all U.S. and international filing requirements on behalf of our mutual client.

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Contacts and Disclosures

Wealth & Fiduciary Advisors at Evercore Wealth Management and Evercore Trust Company, N.A., can work with individuals, families and business owners and their other trusted advisors to protect wealth, establish a legacy, and help transfer a family's values, as well as assets, to future generations. To learn more about how we can help individuals, families and business owners, please visit us at evercorewealthandtrust.com or contact any of our Wealth & Fiduciary Advisors.

NATIONAL

Chris Zander
CEO
+1.212.822.7622
zander@evercore.com

Jeff Maurer
Chairman
+1.561.812.1015
maurer@evercore.com

Justin Miller
National Director of Wealth Planning
+1.415.288.3012
justin.miller@evercore.com

Alex Lyden
Chief Fiduciary Officer
+1.302.304.7369
alex.lyden@evercore.com

NEW YORK

Sean Brady
+1.212.835.0022
sean.brady@evercore.com

Paulo Coelho
+1.212.849.3697
paulo.coelho@evercore.com

Ashley Ferriello
+1.212.822.7691
ferriello@evercore.com

Nancy Shavel Gabel
+1.212.822.7616
gabel@evercore.com

Neza Gallitano
+1.212.671.8779
neza.gallitano@evercore.com

Josh Kruczek
+1.212.671.8604
joshua.kruczek@evercore.com

Kate Mulvany
+1.212.822.7639
mulvany@evercore.com

Thomas Olchon
+1.212.336.6612
thomas.olchon@evercore.com

Alexander O'Neil
+1.212.817.0696
alexander.oneil@evercore.com

Alex Waxenberg
+1.646.259.7205
alex.waxenberg@evercore.com

Cathy Yau
+1.646.259.7871
cathy.yau@evercore.com

MINNEAPOLIS

Rachel Halverson
+1.612.656.2835
rachel.halverson@evercore.com

Maria Plese
+1.612.656.2841
maria.plese@evercore.com

Stacie Price
+1.612.656.2828
stacie.price@evercore.com

Paula Stumne
+1.612.656.2818
paula.stumne@evercore.com

SAN FRANCISCO

Brandon Frandsen
+1.415.276.8432
brandon.frandsen@evercore.com

Todd McPherson
+1.415.288.3013
todd.mcpherson@evercore.com

Keith McWilliams
+1.415.288.3010
keith.mcwilliams@evercore.com

Erica Sloan
+1.414.229.8079
erica.sloan@evercore.com

Edith Tse
+1.415.288.3026
edith.tse@evercore.com

Winnie Yam
+1.415.276.8435
winnie.yam@evercore.com

PALM BEACH

Michael Cozene
+1.561.812.1010
michael.cozene@evercore.com

Tracy Elling
+1.561.812.1019
tracy.elling@evercore.com

Ross Saia
+1.561.812.1013
ross.saia@evercore.com

TAMPA

Julio Castro
+1.813.313.1192
julio.castro@evercore.com

Michael Cozene
+1.813.313.1193
michael.cozene@evercore.com

Meredith Fisher
+1.813.313.1194
meredith.fisher@evercore.com

Kristina Hudson
+1.813.313.1365
kris.hudson@evercore.com

DELAWARE

Alex Lyden
+1.302.304.7369
alex.lyden@evercore.com

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