CROSS-BORDER WEALTH SYSTEMS

THE AMERICAN EXPOSURE

A PRIVATE WEALTH FIELD GUIDE

U.S. real estate | Corporate equity | Pre-IPO holdings | Succession | Insurance architecture

THE CENTRAL QUESTION

Is the family's American exposure coordinated with its global ownership and succession arrangements?

Prepared for international family offices, private-client attorneys, tax advisers and fiduciaries.

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Professional discussion draft - not legal advice or a tax opinion.

The American blind spot

A sophisticated global structure does not necessarily settle an American legal question.

An internationally domiciled family may acquire U.S. property through a company, hold American shares at a foreign custodian, and maintain family succession instruments under the law of its residence. Each element may be rational. Their combined U.S. estate, income-tax, transfer and administration effects require separate analysis.

Three distinctions that change the analysis

- Citizenship is not domicile. U.S. estate-tax residency depends on domicile; an individual can be a non-U.S. citizen yet domiciled in the United States.
- Custody is not situs. Shares issued by a U.S. domestic corporation generally remain U.S.-situs for the estate of a nonresident noncitizen regardless of where the account is located.
- Filing threshold is not tax liability. The generally applicable $60,000 Form 706-NA threshold is a reporting trigger, not a flat tax or a universal $60,000 planning allowance.

ADVISER QUESTION

If the principal dies today, can the family identify each U.S.-situs asset, its legal and beneficial owner, and the person authorized to transfer or administer it?

The correct solution may be a revised holding structure, a coordinated estate plan, a transfer, an insurance arrangement, or no transaction at all. The diagnostic should come first.

AUTHORITIES: IRC §§ 2103-2105; Treas. Reg. § 20.0-1(b); IRS Form 706-NA instructions and estate-tax FAQ [1]-[3].

The U.S. Exposure Map

Five connected inquiries before selecting a trust, entity or insurance policy.

01

SITUS

Identify U.S. realty, domestic shares, business interests, debt instruments, exclusions and potential treaty modifications.

02

OWNERSHIP

Review title, entity classification, beneficial ownership, retained powers, financing and historic transfers.

03

SUCCESSION

Test death and incapacity outcomes, governing instruments, probate exposure and cross-border administration.

04

LIQUIDITY

Map sales, IPOs, distributions, withholding, concentrated positions and ownership changes.

05

PROTECTION

Evaluate lawful trusts, entities, insurance and governance options only after tax and regulatory review.

OUTPUT: AN ACTIONABLE ISSUE REGISTER

For every identified exposure: asset, owner, legal situs, trigger event, source authority, planning option, responsible adviser and unresolved question.

AUTHORITIES: IRS Form 706-NA instructions [1]; IRC §§ 2103-2105 [2]; IRC § 1445 [6].

U.S. real estate

Acquisition planning is not the same as transfer-tax and succession planning.

Direct ownership of American real property by a nonresident noncitizen generally creates U.S.-situs estate exposure. An LLC may provide liability or administrative benefits, but a domestic disregarded entity does not automatically eliminate the owner's estate-tax exposure. Corporate and partnership structures demand entity-classification, income-tax, withholding and exit analysis.

Hypothetical case: a California residence

A Dubai-domiciled family principal owns a $7 million California property through a single-member LLC. The LLC has been managed as a liability shield, and the family assumes the overseas succession plan controls the transfer. Counsel must confirm how the LLC is classified, whether its ownership interest is included in the U.S. taxable estate, how title transfers at death, and whether the estate plan gives an appropriate fiduciary authority.

Issues to resolve before recommending an entity

- Estate-tax characterization of the property or entity interest, with attention to applicable authority and facts.
- Rental-income reporting, debt, property tax, lender consent and California compliance.
- FIRPTA income-tax withholding on dispositions by foreign persons; the general rate is 15% of amount realized, subject to statutory exceptions and certificates.
- Incapacity, title transfer, local administration, insured liability and asset-specific succession.

KEY DISTINCTION

No structure should be marketed as a universal estate-tax blocker. A foreign corporation may change the estate-situs analysis while adding income-tax, FIRPTA, dividend, basis and compliance costs.

AUTHORITIES: IRS nonresident estate-tax FAQ [1]; IRS FIRPTA guidance and IRC § 1445 [6].

Public equity and custody

A foreign account is not necessarily a foreign asset.

Under IRC § 2104(a), stock owned by a nonresident noncitizen is U.S.-situs for federal estate-tax purposes when issued by a domestic corporation. Brokerage location alone does not alter the issuer's domestic status. Other instruments - including some debt and certain funds - require separate statutory classification; do not infer their situs from the ticker or trading exchange.

Hypothetical case: international custody

A Riyadh-domiciled investor maintains $12 million of directly owned U.S. domestic corporate shares with a Swiss private bank. The investor assumes no American transfer-tax exposure because the portfolio never enters a U.S. custodial account. The relevant inquiry is the issuer and ownership, not merely account location. The adviser should evaluate estate inclusion, treaty applicability, transfer documentation, concentration and alternative ownership arrangements.

Estate and gift taxes must be analyzed separately

For a nonresident noncitizen, gifts of intangible property such as U.S. corporation shares are generally outside U.S. federal gift tax under IRC § 2501(a)(2), subject to statutory exceptions. That does not mean every transfer is advisable or tax-free: residence-country tax, retained powers, basis, securities rules, reporting and recipient consequences may change the result.

ADVISER QUESTION

Has the ownership of directly held U.S. securities been reviewed against both the estate-tax situs rule and the lifetime transfer rules?

AUTHORITIES: IRC §§ 2104(a), 2501(a)(2); IRS estate- and gift-tax FAQs [2], [4].

Private equity and pre-IPO holdings

Review the architecture before a liquidity event changes the economics.

Privately held shares issued by a U.S. domestic corporation are not removed from IRC § 2104(a) merely because there is no public market. Venture and founder interests also raise valuation, transfer restriction, shareholder agreement, securities-law and control issues. LLC interests, partnership allocations and foreign holding structures require entity-specific work rather than a stock-rule shortcut.

Hypothetical case: venture investment before IPO

An Abu Dhabi family principal directly owns shares in a Delaware C corporation acquired for $3 million. A potential liquidity event could increase the value to $25 million. The family should consider the U.S. situs analysis before death or transfer, valuation evidence, applicable lockups, permitted transferees, control restrictions, future tax status, and whether any repositioning is advisable before valuation increases or transaction approvals make it costly.

Four workstreams

- Legal: investor rights, transfer restrictions, cap table, beneficial owner and board approval.
- Tax: transfer taxes, capital gains, withholding, domicile and potential anti-avoidance issues.
- Liquidity: IPO timetable, secondary sales, financing and concentration risk.
- Succession: trust terms, governance, fiduciary administration and heirs in multiple countries.

DISCIPLINE

Do not presume that an insurance premium in kind is possible or non-taxable. Insurer admission, asset custody, valuation, ownership transfer and each relevant taxing jurisdiction need independent confirmation.

AUTHORITIES: IRC § 2104(a) [2]; IRS Form 706-NA instructions [1]; IRC § 2501 [4].

Cross-border succession

Documents in one jurisdiction do not automatically govern every asset elsewhere.

Family constitutions, offshore trusts, foundations, wills and nominee arrangements can be valuable governance tools. Their effectiveness for U.S. assets depends on legal title, applicable conflict-of-laws rules, fiduciary powers, local administration and taxation. Religious and family succession considerations should be analyzed by qualified local counsel; their interaction with U.S. title and probate law should not be assumed.

Hypothetical case: three generations, three countries

A Saudi family has beneficiaries in Riyadh, London and California; its patriarch owns U.S. securities, a California rental property and an interest in a technology company. A local family governance document allocates wealth among descendants, but no U.S. fiduciary has verified title, dispositive compatibility, estate filing, income-tax reporting or state administration. The risk lies in the uncoordinated interfaces, not necessarily in the quality of the family document.

Coordination questions

- Who has authority to act after death or incapacity, and how is that authority proved to U.S. custodians and title companies?
- Are beneficiaries or fiduciaries U.S. tax residents, and how would that change trust reporting and distributions?
- Will a transfer trigger a taxable event, filing obligation, lender issue or consent requirement?
- How are conflicts between governing instruments detected and resolved before execution?

DELIVERABLE

A jurisdiction-by-jurisdiction responsibility matrix: U.S. counsel, local private-client counsel, tax specialists, trustee, custodian, insurer and family decision-maker.

AUTHORITIES: IRS Form 706-NA instructions [1]; domicile regulation cited in IRS FAQ [3].

Ownership architecture

The structure must solve a defined problem - not merely add complexity.

Common tools include direct ownership, domestic and foreign companies, partnerships, LLCs, revocable and irrevocable trusts, foundations, and insurance contracts. These structures are not interchangeable. The choice requires modeling both lifetime and death outcomes and recognizing U.S. anti-avoidance and look-through risks where relevant.

Illustrative decision questions

- Individual ownership: simplicity and control, but potential U.S. situs estate exposure.
- Domestic LLC: state-law liability benefits, but federal income-tax classification and transfer-tax characterization require analysis.
- Foreign company: potential change in the direct estate-situs asset, paired with corporate tax, dividend, FIRPTA, substance, financing and exit costs.
- Trust or foundation: fiduciary continuity and governance, but retained powers, grantor status, beneficiary residency and asset transfers require modeling.
- Insurance: potential risk transfer and succession advantages; policy qualification, asset admission, control and local taxation are determinative.

THE RED FLAG

A one-slide “solution” that omits grantor residence, beneficial ownership, expected exit and the tax regimes of both insured and beneficiaries is not a complete plan.

AUTHORITIES: IRC §§ 2103-2105, 2035-2038, 2501; IRS FIRPTA guidance [2], [4], [6].

PPLI: a conditional planning tool

Insurance architecture is an analysis, not a shortcut around tax law.

Private placement life insurance may combine life coverage with separately managed policy assets for appropriately qualified clients. Legal consequences depend on the insured and owner's tax residence, insurance jurisdiction, policy terms, insurable interest, local regulatory distribution rules, asset eligibility and the economics of mortality risk.

U.S.-relevant constraints

- IRC § 7702 defines U.S. tax qualification of life insurance contracts.
- IRC § 817(h) imposes diversification rules for relevant segregated-account variable contracts; investment selection and investor-control doctrine must also be reviewed.
- A non-U.S. policy is not automatically outside U.S. tax rules if a policyholder, insured, beneficiary or relevant transaction has a U.S. connection.
- An in-kind premium is an asset transfer, not a magic conversion. Valuation, legal title, consent, gain recognition and insurer acceptance require scrutiny.

Hypothetical case: concentrated founder shares

A non-U.S.-domiciled founder proposes contributing concentrated pre-IPO U.S. shares to a Bermuda-issued policy. Before modeling benefits, counsel must verify permitted transfers, policyholder/insured tax profiles, actual insurance treatment, underlying asset custody, pricing, investor control, U.S. situs consequences and whether the premium itself triggers income or transfer tax. No favorable result should be inferred from the insurer's Bermuda location alone.

PRACTICE STANDARD

Present PPLI only after documenting why ordinary trusts, direct holding changes and non-insurance solutions are insufficient or inferior for the stated objectives.

AUTHORITIES: IRC §§ 7702, 817(h) [7]; IRC § 2105(a) [2]; product and jurisdiction counsel required.

Three worked illustrations

These are hypothetical issue-spotting examples, not client results or legal opinions.

CASE A | CALIFORNIA REALTY

Facts: A nonresident principal directly owns $8m in California realty.

Analysis: Map estate situs, mortgage/deductions, probate or entity authority, income-tax exposure, FIRPTA on later sale and any available treaty modification.

Lesson: A holding structure can be evaluated, but must be costed through a projected sale and death.

CASE B | FOREIGN-CUSTODIED U.S. SHARES

Facts: A Gulf family holds $20m of U.S. corporate stock at a European bank.

Analysis: Confirm issuer nationality, ownership, nonresident domicile, gift-versus-estate rules and beneficiary tax residence.

Lesson: Relocating custody alone does not cure U.S. estate situs.

CASE C | PRE-IPO POSITION

Facts: An overseas founder owns $35m of restricted shares in a Delaware company.

Analysis: Review cap table, valuation, transfer limitations, estate situs, liquidity timetable, and any insurer's actual willingness to accept in-kind assets.

Lesson: A foreign-issued policy is not by itself proof of nonrecognition or protection from U.S. rules.

No numeric tax saving is illustrated because the applicable estate, income and gift tax outcomes depend on facts and deductions that have not been stipulated. A sound professional example should expose the analysis rather than manufacture a result.

AUTHORITIES: IRS estate-tax FAQ [3]; IRC §§ 2104, 2501 [2], [4]; IRC § 817(h) [7].

Five questions worth asking

A practical screening tool for private advisers before client-specific legal work.

1

What is actually American?

Inventory realty, domestic corporate shares and other U.S.-situated assets - not just U.S. bank and custodian accounts.

2

Who owns it for tax and legal purposes?

Review individuals, entities, partnerships, trustees, beneficial owners, retained powers and domicile.

3

What happens on death or incapacity?

Test U.S. filing, succession, title, liquidity needs, and local fiduciary authority.

4

What changes before an IPO or exit?

Understand transfer restrictions, appreciation, sale withholding, U.S. tax status and transaction approvals.

5

Are proposed solutions actually permitted?

Confirm local law, tax recognition, asset eligibility, insurance regulation, fees, investment control and substance.

A PROFESSIONAL COLLABORATION MODEL

Existing advisers retain their client relationships. U.S. counsel defines a specific legal scope, coordinates with relevant foreign counsel and provides written work product under appropriate engagement and confidentiality terms.

AUTHORITIES: Source set and qualifications on page 12.

Source notes and professional limits

Selected primary authorities and regulator materials reviewed November 2026.

[1] IRS Form 706-NA instructions

https://www.irs.gov/instructions/i706na

[2] U.S. Code, §§ 2103-2105

https://uscode.house.gov/us/usc/119-118/t26/s2104/

[3] IRS estate-tax FAQ for nonresident noncitizens

https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-estate-taxes-for-nonresidents-not-citizens-of-the-united-states

[4] U.S. Code, § 2501; IRS nonresident gift-tax guidance

https://uscode.house.gov/us/usc/119-121/t26/s2501/

[5] IRS estate and gift tax treaty list

https://www.irs.gov/businesses/small-businesses-self-employed/estate-gift-tax-treaties-international

[6] IRS FIRPTA withholding guidance; IRC § 1445

https://www.irs.gov/individuals/international-taxpayers/firpta-withholding

[7] U.S. Code, §§ 7702 and 817(h)

https://uscode.house.gov/us/usc/119-121/t26/s817/

Professional limitations

This publication is an educational issue-spotting framework, not a legal opinion, tax advice, solicitation to purchase insurance, or representation that any particular arrangement is compliant or tax-efficient. Facts, residence and domicile, entity classification, treaties, state law and subsequent legislation can change the analysis. PPLI requires independent tax, insurance, investment, compliance and jurisdictional review. Case examples are entirely hypothetical.

Collaborating with the existing adviser

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Private wealth, estate planning, asset protection and U.S. legal coordination.

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