Estate Planning

Frequently Asked Questions

1.	**Who needs an estate plan?**	Everyone (U.S. citizen/resident or Taiwanese citizen/resident owning assets in the US (real property, bank accounts, brokerage accounts, etc.)) needs an estate plan regardless of the size of their estate or marital status. If proper documentation does not direct the allocation and disposal of assets, the country/state in which you live or own assets at the time of your death will make that decision; a decision that could be costly to heirs and will almost always fail to distribute assets in the way desired
2.	**When should an estate plan be revised?**	Over time, family situations change -- children grow, charitable interests shift, and personal priorities and business commitments undergo transitions. So it is with an estate plan, which requires periodic review if it is to continue to meet personal goals and objectives. Likewise, due to the rapid changes in all phases of taxation in recent years, it is important for families to periodically review their economic and personal positions relative to estate and gift taxation as well as income taxation. However, many people may inadvertently allow several years to go by without giving adequate consideration to possible changes in property holdings or provisions in wills and trust instruments. Wills and trust instruments should also be reviewed on an annual basis.

An estate plan needs to be revised from time to time, such as in any of the following situations:

- Acquisition or disposal of property by sale or gift.
- Changes in the family such as marital status or an increase in family members.
- A move to another state/country.
- A change in any business relationships, such as changing

employment, buying or selling a business, becoming a partner in a business, or incorporating a new business.

- A desire to alter the beneficiaries of a Will or trust, or both.
- A decision to name a different executor or trustee.
- A plan for the guardianship of minor children or if a child becomes an adult and no longer needs a guardian.
- Revisions to the tax laws.

3. **What types of taxes must be considered when preparing an estate plan?**

The basic kind of taxes one must take into consideration when preparing an estate plan are gift taxes and income taxes. Gift taxes are generally paid when a gift is made. Income taxes are paid annually.

Income Taxes

The U.S. taxes its residents and citizens on their worldwide income while Taiwan taxes any individual who has ROC source income. ROC source income is any income earned in Taiwan including but not limited to business income, salary and wages, income from professional practice, interest and rent and royalties. In the U.S., you generally get a step-up in basis on inherited assets. However, certain assets such as income in respect of decedent and treasury bonds do not get a step-up in basis and planning must be done to reduce the income and estate taxes on these assets.

Gift Taxes

Both the U.S. and Taiwan impose a tax when gifts are made. The U.S. allows you to give de minimis gifts of up to $10,000 adjusted for inflation each year to unlimited persons without filing a gift tax return or paying any gift taxes. In addition, you may give away up to the applicable exemption amount (currently $675,000 but will increase to $3.5 million by 2007) during your lifetime without paying a gift tax; but a gift tax return must be filed if the gift is valued at over $10,000. A Taiwanese citizen who resides in Taiwan is taxed on gifts made worldwide; however, a Taiwanese citizen who does not reside in Taiwan is taxed only to the extent that the property given away is located in Taiwan. The donor is responsible for paying the gift tax; but if he/she doesn't then the donee is responsible up to the proportion of the gift they received. Each individual has a NT1, 000,000 annual exemption.

4. **What kind of tools can be used to reduce taxes?**

Offshore Trusts

These trusts are generally created in a tax haven country. An offshore trust may also provide you with creditor protection. Assets can be transferred to the trust to provide estate and income tax savings. In Taiwan, income taxes are paid only on ROC source income; therefore, offshore trusts do not pay any income taxes. The only tax is the dividend tax.

Life Insurance Trusts

Life insurance policies allow leverage of a modest estate into a much larger one for the beneficiaries and/or have the liquidity to pay estate taxes on a large estate. Under such arrangement, ownership of the insurance policies is transferred to an irrevocable trust for the benefit of others. The trustee assumes management of the policies and ownership of them. In some situations, it is more advantageous to fund the trust initially with cash and allow the Trustee to purchase the policies.

Charitable Trusts

Charitable trusts allow you to provide for your family and make gifts to charity to obtain tax deductions. There are two main types of charitable trusts: charitable remainder trusts and charitable lead trust. A charitable remainder trust allows gaining income for a certain period, at the end of which the funds pass to the charity. The period can be determined by the beneficiary. It may be over your life and the life of your children. A charitable lead trust allows the charity to get income for a certain time period and at the end of the income period, the funds revert to you and your family. Because a charity is receiving the funds, you are entitled to a charitable deduction.