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Presentation with the Asia Estate Planning Association

US Tax Problems and Solutions for High Net Worth Families

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LAW ELEVATED

Butler Snow LLP

- 26 Offices in the US and 2 Offices Outside of the US
- Full-service, AmLaw 200 Law Firm & Member of Lex Mundi
- Represent More than 30 Families Listed in Forbes' World's Wealthiest Families
- Represent Numerous World Renowned Artists, Athletes, Entertainers and Nobility

The Tan Family of Singapore

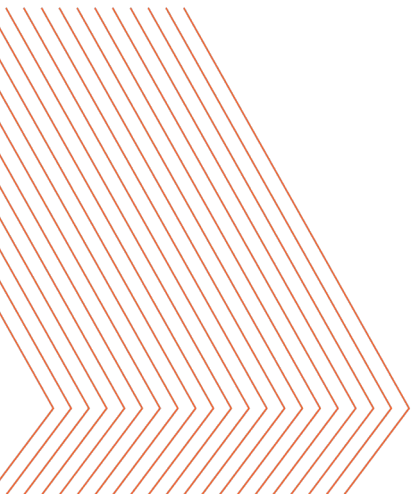
First Generation:

- Patriach Tan holds an expired green card and is Singaporean.
- Matriarch Tan is Singaporean only.
- Patriach Tan is a successful businessman and has investments worldwide, including shares in US companies and real estate in the US.
- Patriarch Tan has never filed US income tax returns.

Second Generation:

- First Son was born in the US but grew up in Singapore. He later studied at universities in the US and eventually became a professor at UCSD.
- Second Son was born in Singapore but is married to an American.
- Daughter was born in Singapore and never lived in the US.

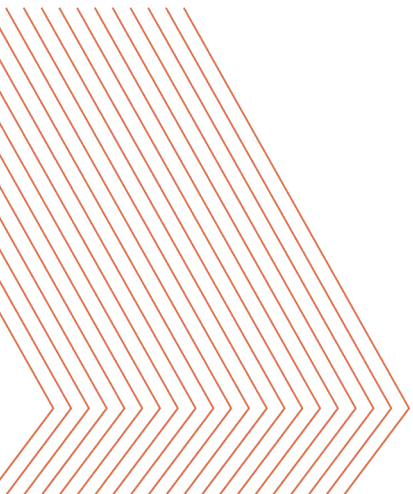
First Generation Passes Away Any Problems?



PROBLEM: US INCOME TAX

- Rates
 - Federal : 37%
 - State : 0% - 13.3%
 - City: 0% - 3.9%
- US Citizens
 - “Traditional” Americans
 - “Accidental” Americans
- Residency
 - Green Card
 - I-407
 - Immigration law versus tax law
 - Substantial Presence
 - $X + Y/3 + Z/6 = 183$ or more

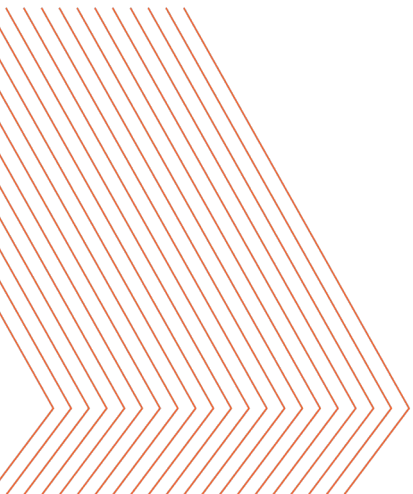
Income Tax Problems When Children Inherit?



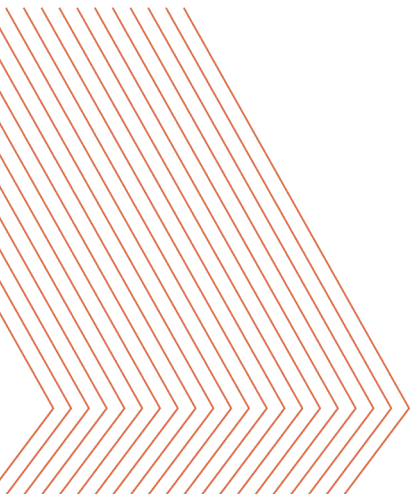
PROBLEM: US ESTATE AND GIFT TAX

- Rate
 - Estate : 40%
 - Gift : 40%
 - Exemption : US\$12.92M
- Applicability
 - US Citizens
 - Domicile
 - Facts and Circumstances
 - Green Card
- US Situs Assets
 - US Real Estate
 - US Equity

Estate Tax on Worldwide Assets



Estate and Gift Tax Problems for the Tan Family?



PROBLEM: US ESTATE AND GIFT TAX

- Filing Estate Tax Return
 - First Son is Executor of Dad's Estate
 - Criminal Liability?
- US Situs Assets
 - Tax Payment and Liquidity
 - IRS Processing Time
 - State Law Problems and Taxes
- At Least 1/3rd of Family Assets now in US Tax Net
 - Per Generation Depletion

PROBLEM: Exhaustive Reporting

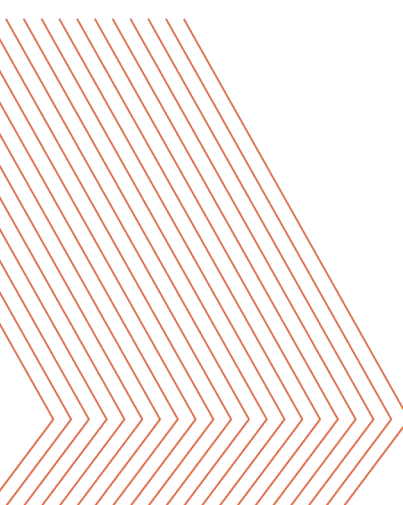
- FATCA – Foreign Account Tax Compliance Act
- FBAR – Foreign Bank Account Report
- Form 5471 – Controlled Foreign Corporation
- Form 8621 – Passive Foreign Investment Companies
- Form 8938 – Specified Foreign Financial Assets
- Form 8854 – Expatriation Statement
- Form 3520 – Report of Gifts

SOLUTION: EXPATRIATION

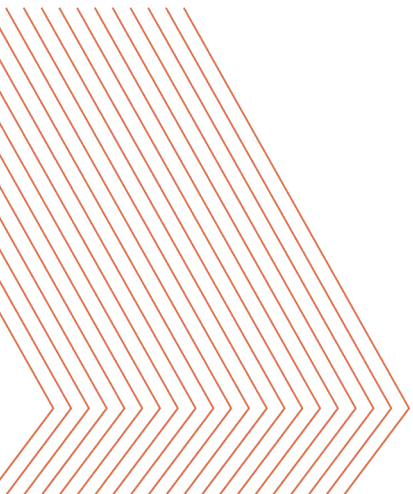
- Expatriation
 - US Citizens
 - Long Term Green Card Holder
- Covered Expatriate Tests
 - Net Worth Test
 - 5 Years of Compliance
 - Annual Tax Liability Test
- Consequences
 - Capital Gains Tax
 - Tax on Future Distributions

SOLUTION: EXPATRIATION

- Exceptions to (some of the) Rules
 - Dual Citizens At Birth
 - 18.5 Expatriation



Can Anyone in the Tan Family Expatriate?



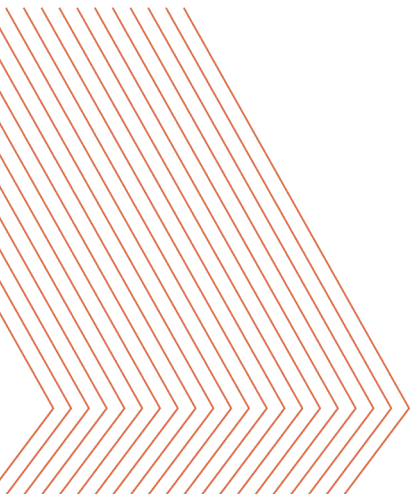
SOLUTION: FGT

- FGT Treated Like Foreign Person
 - Tax Only on US Sourced Income
 - FDAP Income
 - Effectively Connected Income
 - Otherwise, No US Income Tax
- Reporting, but No Tax for US Person
 - Form 3520

SOLUTION: FGT

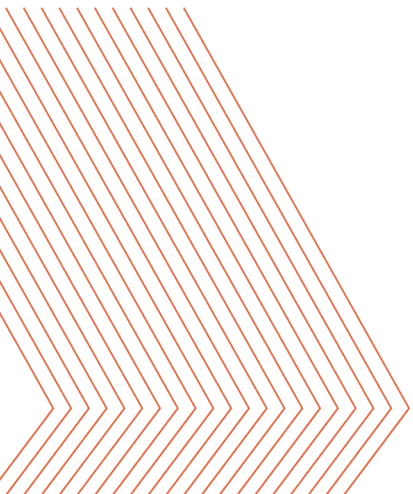
- Blocks US Estate Tax
 - Assets Never in US Estate Tax Net
 - Use of Non-US Companies
- Contrast to Direct Bequest
 - 40% Tax Each Generation
 - 5 Generations to Deplete Wealth
- Window of Opportunity
 - Only Available for Non-US Persons
 - Opportunity Lapses

What Could Patriarch Tan Have Done to Fix All of These Problems?



Timing is Critical!

Compare: IDGTs and GRATs





Q & A

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