Investment Tax Planning for U.S. and International Investors

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As of July 2016, Gary Wolfe has internationally published 15 books and 28 articles. Gary has received 14 international tax awards from five different Global expert societies in LONDON/UK including being voted one of the 100 leading world's law firms with votes from over 150,000 voters in over 160 countries with the following award: Global 100 (2016) (KMH Media Group) - CA/US International Tax Planning Law Firm of the Year.

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for U.S. and International Investors

U.S. and International Investors who invest in the US or immigrate to the US face the same issues:

1. Worldwide US income, estate and gift tax reporting and taxes due.

2. Disclosure of foreign bank accounts (over $10k by annual FBAR filings) and disclosure of foreign financial assets over $50k (FATCA Form 8938, attached Form 1040).

Failure to report income, disclose accounts, pay taxes subjects the investor to multiple tax felonies including: IRC 7201(willful evasion of tax; 5 years in jail), IRC 7212 (obstruction of tax collection; 3 years in jail), 18 USC 371 (conspiracy to commit tax evasion; 5 years in jail); IRC 7206 (filing a false tax return; 3 years in jail).

Use of tax evasion proceeds to purchase assets implicates the investor in a sister trio of 20 year felonies:

1. Money Laundering - purchase of assets with either illicit proceeds from criminal activity or tax evasion proceeds;

2. Wire Fraud - use of interstate wires in “furtherance of a scheme to defraud which includes interstate telephone calls, and wire

transfers;

3. Mail Fraud - use of the US Mail re: scheme to defraud.

If an investor has an undisclosed sum offshore (e.g. $1m) and purchases an expensive car, art, jewelry, etc. he or she may be subject to 7 separate felonies for tax crimes. The 8th felony for failure to file FBARs is a 10 year felony if willful failure to file (imposed for each tax year not filed).

In summary, the investor may face criminal prosecution for up to 8 separate tax crimes (felonies) with maximum statutory imprisonment of over 80 years in jail.

What Should Investors Do To Protect Themselves?

Tax Planning with Asset Protection Strategies include the following tactics:

1. The Investor name and Social Security number should remain confidential.

2. Ownership of assets is held through a trust (for efficient transfer on death and probate avoidance which saves up to 5% of the gross value of the assets in costs of probate and many years before distributions are finalized).

3. Business activities are operated in a special structure (i.e.

combined corporate/limited liability company structure) for maximum confidentiality and asset protection).

4. For Investment tax planning, both private placement life insurance policies and private annuities are designed to act as "tax advantaged wrappers" for investment income (dividends, interest and capital gains) with no tax reporting on earnings while the life policy is in effect and upon the death of the insured and while money accumulates in the annuity, and, if the life insurance policy is a non-modified endowment contract (i.e. premiums funded over 5 years subject to government guidelines) there is no tax on basis withdrawal and if the earnings are "borrowed out" as a "loan", the borrowed funds are tax-free and may be repaid tax-free on a leveraged basis from the death benefit proceeds.

5. Life Insurance death benefit proceeds if properly structured may be received income, estate & gift tax free.

6. Private annuities are contracts between individuals and don't involve an insurance/annuity company. The contract is between the Annuity Issuer (a private company) and the annuitant (the annuity recipient). A Private Annuity offers confidentiality and tax-deferral on earnings with no income tax reporting/tax due unless distributions are made to the annuitant.

7. Asset Protection: In California, assets held in a Limited Liability Company are not subject to Creditor Attachments (i.e. they can only attach distributions). If the private placement life insurance

or annuity are governed under Puerto Rico law they are not subject to creditor attachment (i.e. exempt assets).