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US Tax Considerations for Real Estate Investments by Non-US Individuals

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Tax Advice Disclosure

To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this presentation (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

CATEGORIES OF US TAX ISSUES POSED BY OWNERSHIP OF U.S. REAL PROPERTY BY FOREIGN PERSONS

A. **US Income Tax imposed on rents received and other income derived from the ownership of US real property**

B. **US Income Tax on distributions by the US entity owning the US real property**

C. **US Income Tax on dispositions of the interest in the US real property and the interests in the vehicle owning the US real property**

D. **US estate tax considerations applicable to the ownership of US real property and interests in entities holding US real property**

US Estate Tax Considerations Applicable to US Real Estate Investments

US Estate Tax Considerations Applicable to the Ownership of US Real Property by Non-US Individuals

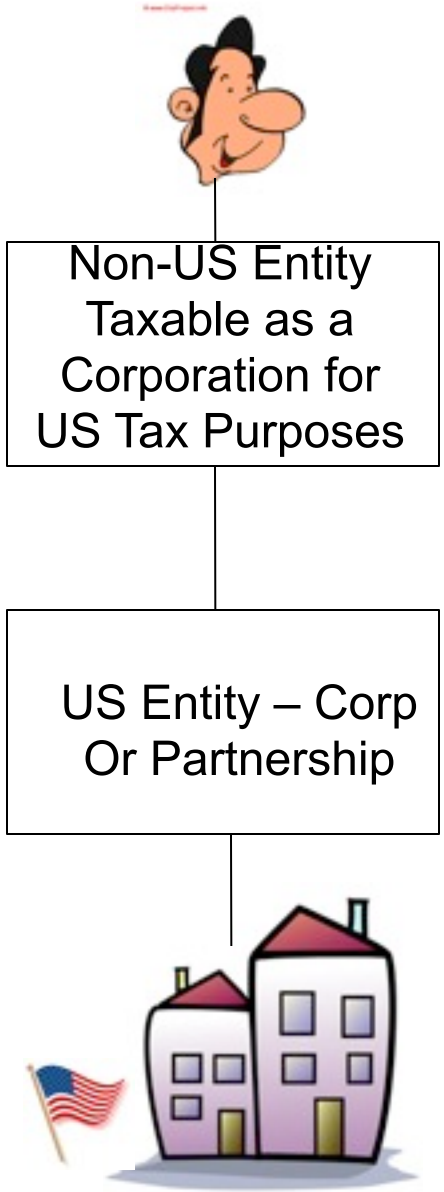
The U.S. currently imposes an estate tax at the rate of 35% of the value of property passing to heirs. The 35% rate is set to expire at the end of this year and increase to 55%.

Individuals who are neither citizens nor domiciliaries of the U.S. generally are subject to U.S. federal estate tax only on assets located within the U.S. at the time of death.

Rules for Property Subject to US Estate Tax for Non-US Persons:

- US real property & stock of US corporations, but not debt instruments issued by US corporations
- Stock in a foreign corporation is never subjected to US estate tax
- Interests in US partnerships: Unclear, but there is a substantial position that such assets are not subject to US estate tax.

US Estate Tax Considerations Applicable to the Ownership of US Real Property by Non-US Individuals



Since the Non-US Investor does not own an equity interest in a US entity, no US Federal estate tax can be imposed if the Non-US Investor owns the real estate interest at death

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US Income Tax Considerations Applicable to US Real Estate Investments

Persons Engaged in a US Trade or Business Are Subject to Net US Federal Income Tax

Passive Investment or Active Trade or Business?

If property is going to be owned through a foreign partnership or foreign corporation it must be determined whether the entity will be carrying on an active trade or business in the U.S.

i. This determination is made based on the level of activity of the partnership or the corporation.

ii. If it is determined that the foreign entity is *not* carrying on a U.S. trade or business, the rental income paid by the U.S. lessee will be considered passive investment income subject to 30% withholding tax imposed on a gross basis (i.e., no deductions are allowed).

iii. If gross basis taxation is less desirable than net basis taxation, the foreign entity can elect to have its income treated as business income taxable on a net basis (this election generally is made, so the remainder of the outline assumes net basis taxation applies).

Tax & Reporting on Non-US Persons Engaged in a US Trade or Business

Rents & Current Income From Property

a) The partners, not the partnership, are subject to U.S. income tax on a net basis (i.e., associated depreciation and expenses are allowed as deductions).

b) Applicable maximum tax rate is 35% regardless of whether the investor is an individual or corporation

c) A "branch profits tax" may be imposed on the income earned by a foreign *corporation* (but not individuals).

   i. The BPT is 30% (or lower treaty rate) of after tax income that is not reinvested in the property.

   ii. It is a viewed as a substitute for the withholding tax imposed on dividends paid by a U.S. subsidiary to its foreign owner; however, it is imposed on an annual basis regardless of whether actual distributions are made.

d) Each partner as well as the partnership will be required to file U.S. Federal income tax returns annually. Non-US corporations would be required to file a US tax return.

Tax & Reporting on Non-US Persons Engaged in a US Trade or Business

Gains from Sale of Property

a) Gains from sales are subject to the "Foreign Investment in Real Property Tax Act" ("FIRPTA").

b) Gains are subject to U.S. tax at the regular capital gains rates applicable to individuals or corporations, depending on whether the partner is an individual or corporation.

   i. The capital gains rate applicable to individuals currently is 15% (25% if the gain represents certain depreciation recapture).

   ii. The capital gains rate applicable to corporations currently is graduated to 35%.

   iii. There is a 10% withholding tax on the gross sales price (unless a withholding certificate is obtained certifying that no gain is being recognized); the withheld tax is applied to the seller's U.S. income tax liability.

c) No branch profits tax should apply.

The Branch Profits Tax Attempts to Mimic the Tax That Would Have Been Imposed on Dividends Paid by a US Corporation

To the extent that the Non-US Corporation has US-connected earnings and profits ("E&P"), actual or deemed distributions constitute dividends which, if paid to non-U.S. investors, would be subject to U.S. withholding tax at the rate of 30% (or lower treaty rate).

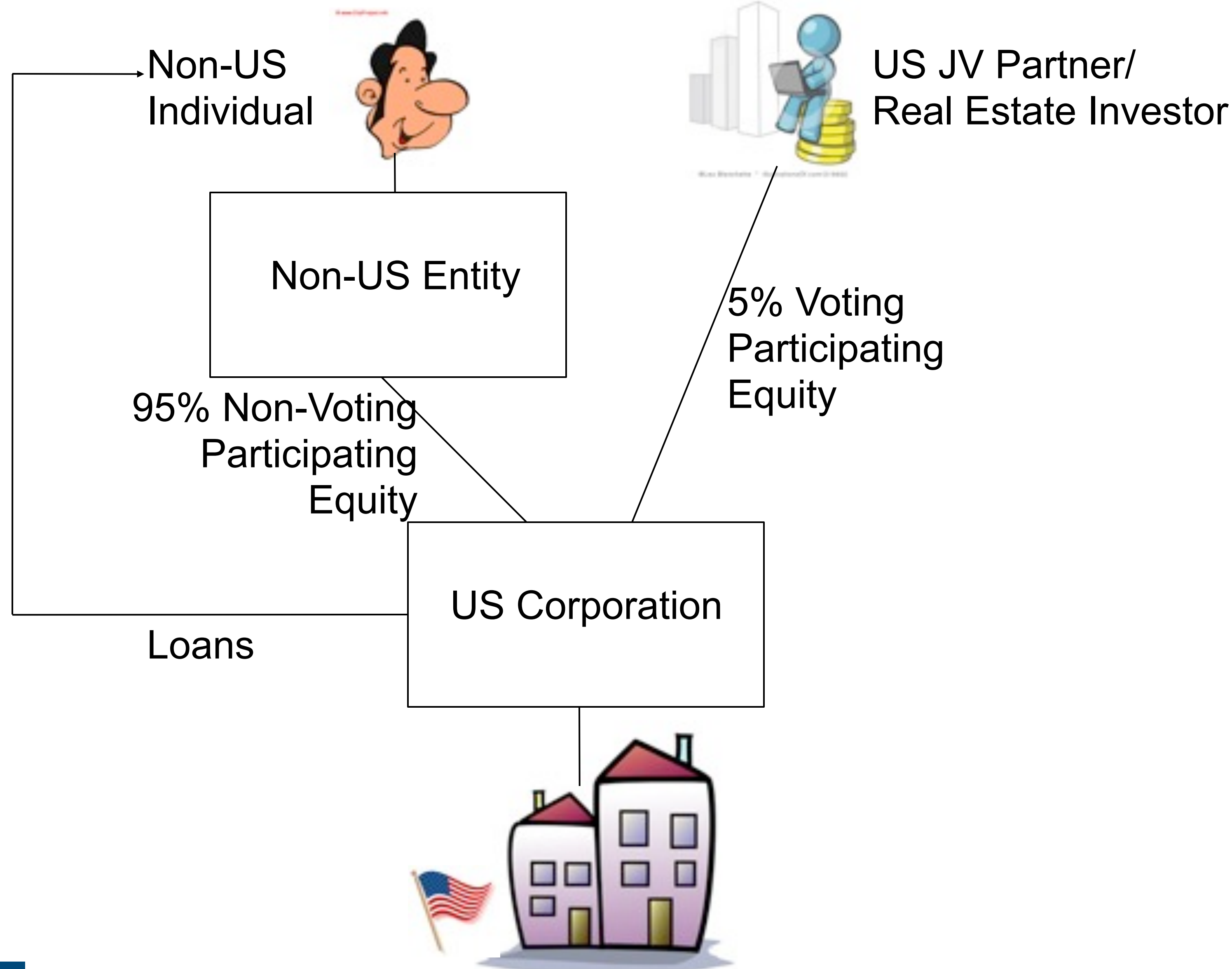
Distributions to non-U.S. investors in excess of the non-US corporation's E&P generally should be treated as a tax free return of capital to the extent of the investors' basis in the Equity Interests and should not be subject to tax.

Distributions in excess of E&P and basis generally should be treated as capital gain from the sale of the investors' Equity Interests and would be subject to FIRPTA.

Main differences between owning US Realty through a Partnership or Corporation

1. Partners in a foreign partnership have to file U.S. tax returns; shareholders in a foreign corporation do not.
2. The branch profits tax applies to foreign corporations (including corporate partners in foreign partnerships), but not to individuals.
3. The capital gains rate applicable to foreign corporations (including corporate partners in foreign partnerships) is 35%, whereas the rate applicable to individuals is 15% (going to 20%); therefore, individuals can obtain more favorable rates by investing through a partnership.
4. However, the U.S. estate tax could apply to individual partners of a foreign partnership, but would not apply to individuals who are shareholders of a foreign corporation.
5. A sale of shares in a foreign corporation that owns U.S. realty are not subject to U.S. tax, whereas a sale of interests in a foreign partnership that owns U.S. realty is subject to U.S. tax.

Tax-Efficient Direct Structure for US Real Estate Investments by Non-US Individuals



Debt-Financing the US Entity Reduces the Sting of the US Tax Bite

Payments on the Notes

a) Repayment of principal on the Notes should not be subject to U.S. tax.

b) Interest paid to a foreign recipient generally is subject to U.S. withholding tax at the rate of 30% unless:

   i. the "portfolio interest exemption" applies; or

   ii. such withholding tax is eliminated or reduced by an applicable income tax treaty.

c) Interest on the Notes should be eligible for the portfolio interest exception if, *inter alia*,

   i. the note holder does not own 10% or more of the voting power of the US obligor (however, a note holder can own a greater than 10% economic interest in the US obligor);

   ii. the interest is not contingent (*i.e.*, is not based on income, profits or changes in value of the real estate); and

   iii. the investor is not a bank (or conduit thereof).

Participation of the Unrelated Real Estate Investor Creates the Opportunity for Portfolio Interest

Who can serve as the holder of the voting stock?

- Any unrelated person, whether US or non-US.
- Sisters & brothers of the investor, as well as the investor's nieces and nephews.
- The foreign investor cannot control the third party holding the voting stock.
- The unrelated person's investment in the voting stock should not be debt-financed by the investor.
- The value of the voting stock should not be depressed to de minimis levels.
- The equity participation of the voting stock can be capped, but should provide an equity-like return.

The US Thin Cap or Earning Stripping Rules Mandate Parameters for the Debt-Financing

The US has thin capitalization rules the limit the amount of deductible interest. In the US, these rules are called "thin capitalization" or "thin cap" rules.

Thin cap rules apply if 2 conditions are met:

The debt-to-equity ratio exceeds 1.5:1. Tax basis & not fair value is used to determine value of assets.

Debtor has "excess interest expense." This exists when net interest expense exceeds 50% of adjusted taxable income of debtor.

Disallowance only applied to "disqualified interest," that is, interest not subject to US tax paid to a related person.

Structuring Dispositions of US Real Property Held Through a US Corporation

Gains from Sale of Property

a) Income from the sale by the Fund of its real property would be includible in the Corporation's U.S. taxable income and subject to U.S. tax on a net basis at the corporate rate (*i.e.*, currently graduated to 35%).
   i. Such taxable income would be reduced by interest payable on the Notes and any net operating loss carryovers that may have been generated in prior years.

b) U.S. withholding tax on liquidating distributions by the Feeder to non-U.S. investors can be avoided if the Feeder defers liquidating until the Fund has disposed of *all* of its real estate in taxable transactions.
   i. Once the Fund has disposed of *all* of its real estate in taxable transactions, it is no longer a "United States Real Property Holding Company" ("USRPHC") and, therefore, is *not* subject to the FIRPTA rules.
   ii. Capital gain realized by a non-U.S. person on the liquidation of a U.S. corporation that is not a USRPHC is not be subject to U.S. tax.

The Simpler Alternative of Holding US Real Estate Through an Off-shore Entity Has Advantages Too

1. Advantages of Ownership Through Foreign Partnership:
   a) Gain allocated to a foreign investor who is an individual on a sale of the real estate should be subject to tax at the preferential capital gain rate applicable to individuals (15% - 25%, rather than the 35% capital gains rate applicable to corporations).
   b) Possibility of exemption from U.S. estate tax (caution is advised).
2. Advantages of Ownership Through Foreign Corporation:
   a) Sale of the foreign corporation (as opposed to the real estate) would not be subject to U.S. tax (although discounted price is likely).
   b) Exemption from U.S. estate tax is clear.

What We Have Not Covered Today, But Should Be Considered Before a Real Estate Investment Is Made

A. State and local taxes
B. The use of real estate investment trusts (REITs)
C. Direct investments

Certain Considerations Relating to the Ownership of a Vacation Home in the U.S. where no Rent is Charged

A. Should be owned through a foreign partnership or corporation to eliminate the risk of U.S. estate tax as discussed above.

B. No existing IRS rulings that rent should be charged.

C. Because it is not an investment, expenses cannot be deducted.

D. Generally, no U.S. reporting requirements.

E. The disposition of the vacation home will be subject to the same FIRPTA rules discussed above.