Owning Foreign Assets Requires Special Estate Planning

In an increasingly global world, it's not uncommon for individuals and families to own assets outside the United States. A vacation home in another country, inherited property overseas, foreign bank or investment accounts, or even an ownership interest in an international business can all add complexity to your financial picture. While these assets may represent meaningful opportunities and diversification, they also require careful attention when it comes to estate planning.

Failing to properly account for foreign assets in your estate plan can create unintended tax consequences, legal complications and administrative delays for your heirs. Different countries have their own inheritance laws, tax regimes and reporting requirements — many of which may conflict with U.S. tax laws. Coordinating your estate plan to address these cross-border issues is essential to ensure your wishes are carried out efficiently and that your family isn't left navigating a maze of international regulations during an already difficult time.

Double taxation is possible

If you're a U.S. citizen, you're subject to federal gift and estate taxes on all of your worldwide assets, regardless of where you live or where your assets are located. So, if you own assets in other countries, there's a risk of double taxation if the assets are subject to estate, inheritance or other death taxes in those countries. You may be entitled to a foreign death tax credit against your U.S. gift or estate tax liability — particularly in countries that have tax treaties with the United States — but in some cases those credits aren't available.

Keep in mind that you're considered a U.S. citizen if 1) you were born here, even if your parents have never been U.S. citizens and regardless of where you currently reside (unless you've renounced your citizenship), or 2) you were born outside the United States but at least one of your parents was a U.S. citizen at the time. Even if you're not a U.S. citizen, you may be subject to U.S. gift and estate taxes on your worldwide assets if you're domiciled in the United States.

Domicile is a somewhat subjective concept — essentially it means you reside in a place with the intent to stay indefinitely and to always return when you're away. Once the United States becomes your domicile, its gift and estate taxes apply to your assets outside the United States, even if you leave the country, unless you take steps to change your domicile.

Consider drafting two wills

To ensure that your foreign assets are distributed according to your wishes, your will must be drafted and executed in a manner that will be accepted in the United States as well as in the country or countries where the assets are located. Often, it's possible to prepare a single will that meets the requirements of each jurisdiction, but it may be preferable to have separate wills for foreign assets. One advantage of doing so is that

separate wills, written in the foreign country's language (if not English) can help streamline the probate process.

If you prepare two or more wills, it's important to work with local counsel in each foreign jurisdiction to ensure that the wills meet each country's requirements. And it's critical for your U.S. and foreign advisors to coordinate their efforts to ensure that one will doesn't nullify the others. Also, keep in mind that some countries have forced heirship or similar laws that can override the terms of your will.

Complex tax laws require professional help

Including foreign assets in your estate plan isn't just a matter of organization — it's a matter of protecting your legacy. By addressing cross-border assets proactively and coordinating your strategy with your estate planning advisor, you can reduce uncertainty, manage potential tax exposure and spare your loved ones unnecessary complexity.