

Do you always need an Estate Tax Foreign Blocker?

Steven H. Hagen, Esq.

Harper Meyer Perez Hagen Albert Dribin Deluca & Osorio LLP

Miami, FL USA

(305) 577-3443

shagen@harpermeyer.com

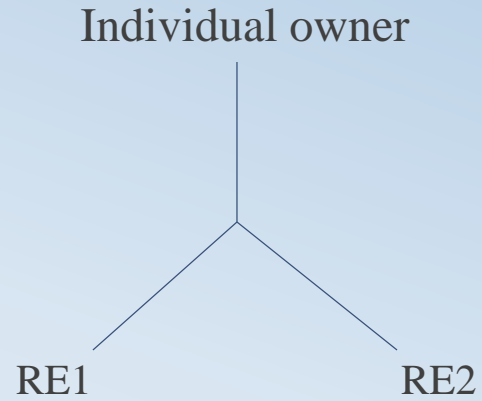
Transnational Tax Network Conference

Miami – May 3, 2019

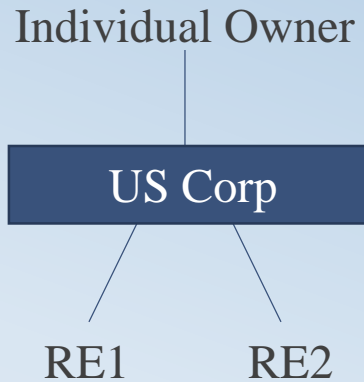


All slides assume

- 1. Foreign Ultimate Owners*
- 2. Ownership of Two Parcels of Real Estate*
 - a. One worth \$6,000,000 (“RE1”)*
 - b. One worth \$10,000,000 (“RE2”)*
- 3. Each parcel purchased for \$3,000,000*
- 4. No mortgages, no operating income*



1. *No confidentiality*
2. *Personal liability*
3. *Must file personal income tax return on sale*
4. *Income tax at 20% (\$2,000,000)*
5. *Estate Tax at death at 40% (\$6,400,000)*

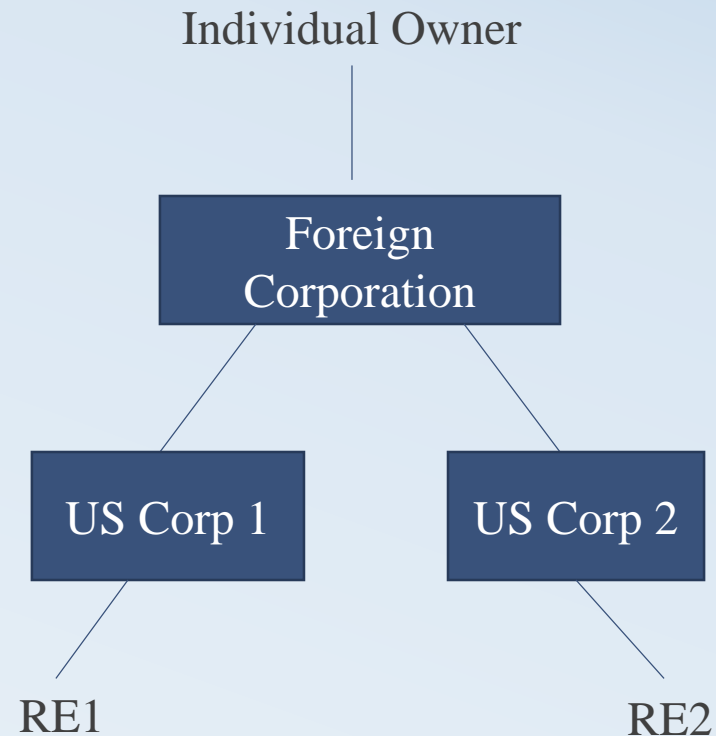


1. *Some confidentiality*
2. *No personal liability – but cross liability*
3. *No personal tax return, but corporate return*
4. *Income tax at*
 - a. *25.5% (corporate / Florida rate)*
 - b. *30% dividend withholding tax so combined 48.2%*
 - c. *Maybe deductions*
5. *Estate Tax at death 40% (\$6,400,000)*



Same as prior slide but no US estate tax

*Two US corporations – avoids 30% withholding tax on dividends on sale,
eliminate cross liability*





- 1. Enhanced confidentiality*
- 2. No personal liability*
- 3. Must file personal tax returns*
- 4. Income tax at 20%*
- 5. Estate tax ---*

Estate Tax

1. *Imposed on assets situated (located) in US (IRC 2103)*
2. *Stock of U.S. corporations in located in US.*
3. *LLC or Partnership Interest?*
 - a. *TreasReg Section 20.2104 -1(b) - -*

“U.S. taxable estate includes intangible property --- issued by a resident of the US”
 - b. *Blogett vs. Silberman – US Supreme court ruled CT could tax its resident of NY partnership interest since “intangible property has such a situs as the domicile of its owner”*