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TTN Conference

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INFORMATION EXCHANGE UNDER FATCA AND THE CRS IN MEXICO

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Agenda

- Common Wealth Planning Needs in Mexico
- DTTs and TIEAs
- FATCA and the IGA
- CRS
- Repatriation and Amnesty



Common Wealth Planning Needs in Mexico

- Confidentiality / Personal Safety
- Mexican Taxation / Deferral
- Foreign Taxation / Succession Taxes
- Estate Planning / Designation of Heirs & Beneficiaries
- Asset Protection



Common Wealth Planning Needs in Mexico

- Country Risk (Regime Uncertainty)
- Currency Risk (Inflation & Confiscation)
- Sophisticated Markets (Execution & Diversification)



DTTs & TIEAs

- Treaties in force or in negotiation with 93 countries
- Treaty efforts began in early 1990s (OECD)
- Information exchange with most treaty partners
- Signatory of the Convention on Mutual Administrative Assistance in Tax Matters



FATCA & IGA

- Mexico was an early adopter of an IGA (2012)
- *Automated* and “*reciprocal*” information exchange
- Information from the IRS to the SAT includes:
 - Depository Accounts generating over \$10 in interest
 - Custodial Accounts generating US source income
 - Accounts held directly by Mexican individuals or entities
- New W8 forms include Mexican taxpayer ID
- No reporting of UBO of offshore entities, trusts, or foundations



FATCA & IGA

- Mexico will receive the following information:
 - Name
 - Address
 - Taxpayer ID
 - Account Number
 - Name of Bank
 - Amount of interest earner
 - Amount of US source income



FATCA & IGA

Article 6 Reciprocity.

The Government of the United States acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange with Mexico(...)"



Common Reporting Standard

- CRS acts as Global FATCA
- Automatic Information Exchange between 95 countries
- Mexico among 55 countries starting in 2016
- The rest will follow in 2017
- Significant identification and financial information subject to exchange
- Rules are currently being developed



Common Reporting Standard

- Financial Institutions required to:
 - Conduct appropriate due diligence
 - Collect substantial information
 - Confirm client's tax residence
 - Report to their domestic tax authority (for automatic transmission to relevant tax authority)



Common Reporting Standard

- Financial Institutions defined as:
 - Depository Institutions
 - Custodial Institutions
 - Investment Entities (Including Trusts, PICs, Partnerships, and Foundations)
 - Specified Insurance Company



Common Reporting Standard

- Financial Account defined as:
 - Depository Account
 - Custodial Account
 - Debt or Equity* in a Trust, PIC, Partnership, or Foundations
 - Cash Value Insurance or Annuity Contract

*Equity in a trust includes a settlor or beneficiary or any person who exercises ultimate effective control



Common Reporting Standard

- Account Holders subject to Reporting:
 - Account holders that are tax residents in a reportable jurisdiction
 - Look-through to the UBO where:
 - Account holder is a Passive Non-Financial Entity (NFE)
 - With controlling persons who are tax resident in a reportable jurisdiction



Common Reporting Standard

- Passive NFEs subject to look through:
 - Entities not managed by a professional that do not conduct an active business
 - Entities managed by a professional that are not located in a participating jurisdiction



Common Reporting Standard

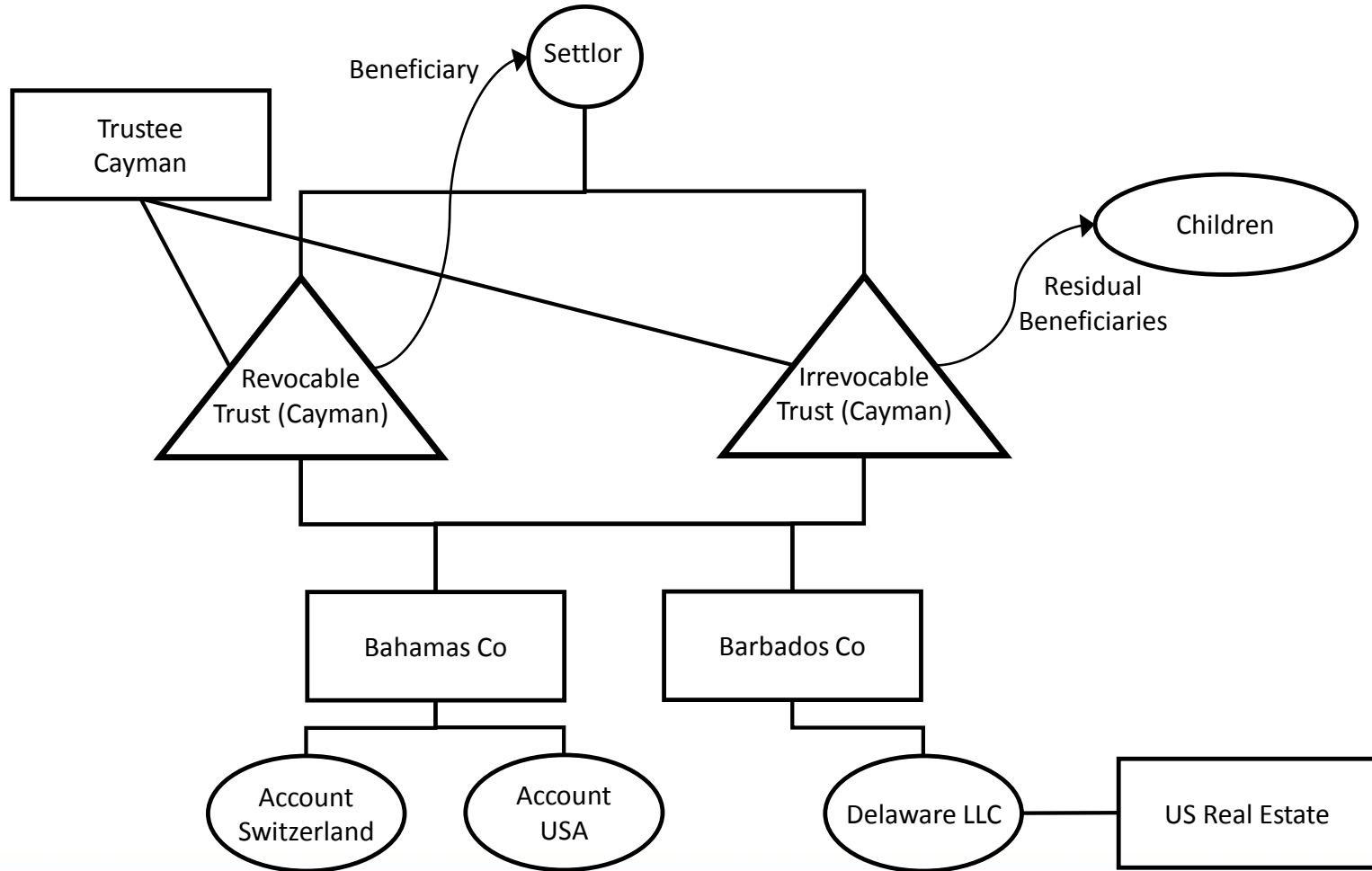
- Controlling Persons:
 - Trust: Settlor, trustee, protector, beneficiary, or anyone else exercising ultimate effective control
 - Entity: Substantial shareholder, individual exercising control, senior managing officials

Common Reporting Standard

- CRS Self-Certification Form shall include:
 - Account holder name
 - Address
 - Tax residence
 - Tax ID
 - Date and place of birth
 - CRS entity classification



Sample Structure



Repatriation and Amnesty

- “Timbre” and anonymous payment are gone
- Amnesty requires repatriation of funds by 6/30/2016
- Investments maintained out of Mexico as of 12/31/2014
- Same name accounts or related parties
- Tax on income paid immediately after repatriation
- Principal amount must have been subject to tax in Mexico
- Investments must be maintained in Mexico for 3 years
- No penalties or criminal charges
- Taxpayer name will be made public



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