



# The Use of the United States Territories for International Planning

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# FATCA

## The Foreign Account Tax Compliance Act

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- **What is FATCA?** U.S. efforts to combat tax evasion.
- **When it started?** It was enacted in 2010.
- **How does it work?** Reporting institutions are required to provide information to the IRS regarding **financial assets and/or substantial ownership interests** held outside the United States by a **U.S. Person**.
- **Non-compliance?** 30% withholding on U.S. source income and gross proceeds.



# Reporting to the foreign country

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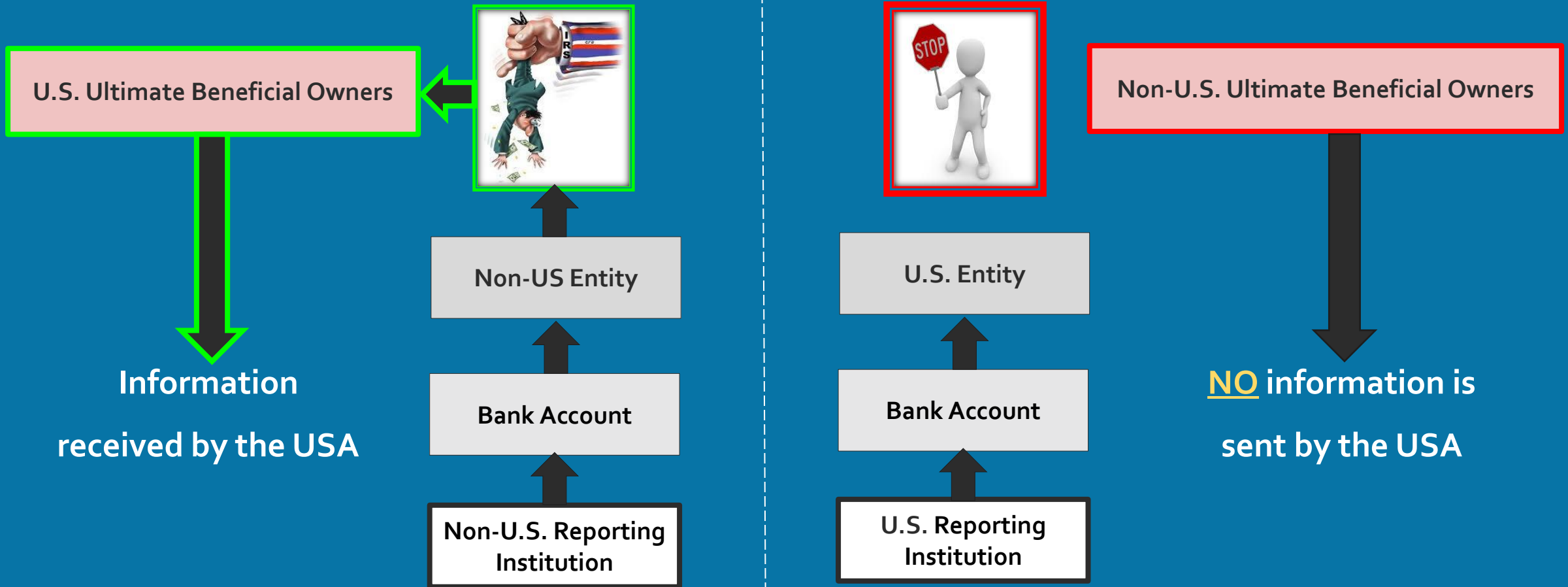
## Reciprocal treatment?



- The non-US reporting institutions must report all relevant information concerning the U.S. account holder and, if necessary, proceed with **due diligence to identify the ultimate U.S. Person controlling the reported asset.**
- The U.S. reporting institutions are generally not required to identify ultimate owners or beneficiaries of accounts owned by entities.

# Example of the non-reciprocal treatment

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# CRS

## The Common Reporting Standard

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- **What exactly is the CRS?** Under the guidelines of the OECD, it provides **automatic exchange of information** on an annual basis among participating countries.
- **CRS x FATCA:** The CRS is **more detailed than FATCA** with respect to the financial institutions required to report, taxpayers covered, and due diligence procedures to be taken.



# Who signed the CRS?

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- **Jurisdictions undertaking first exchanges by 2017 (52)** Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom.
- **Jurisdictions undertaking first exchanges by 2018 (48)** Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Bahrain, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curaçao, Dominica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, Nauru, New Zealand, Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay, Vanuatu



# Who has not signed the CRS?

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## The United States and its Territories!

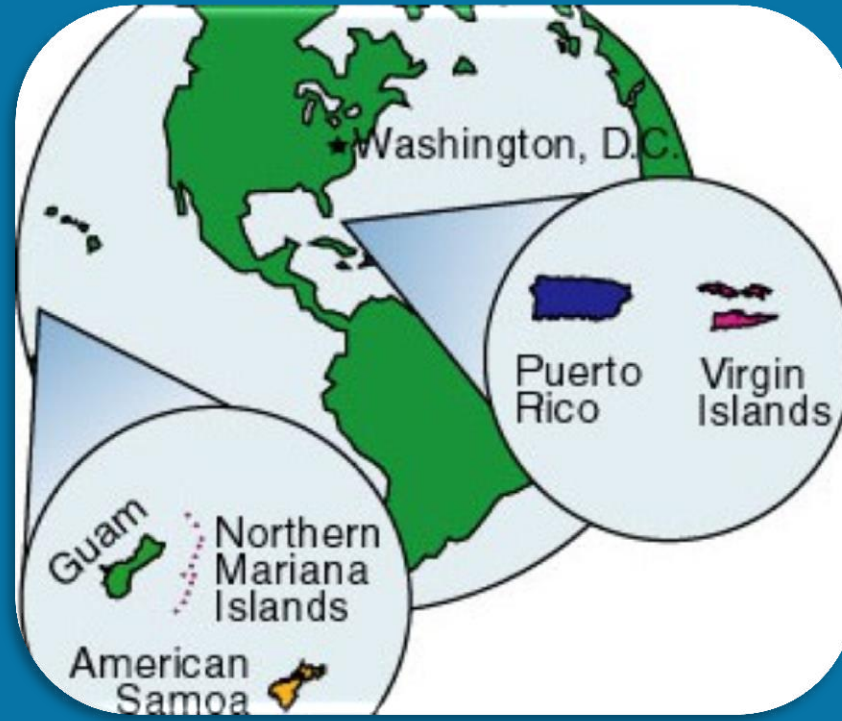


- **Will the USA sign the CRS in a near future?** Probably not.
- **The look-through rule:** Applicable to non-US reporting institutions responsible for reporting ultimate beneficial owners of non-financial entities located in the USA.

# U.S. Territories

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- U.S. Virgin Islands
- Puerto Rico
- Guam
- Northern Mariana Islands
- American Samoa





# Planning in the U.S. Virgin Islands

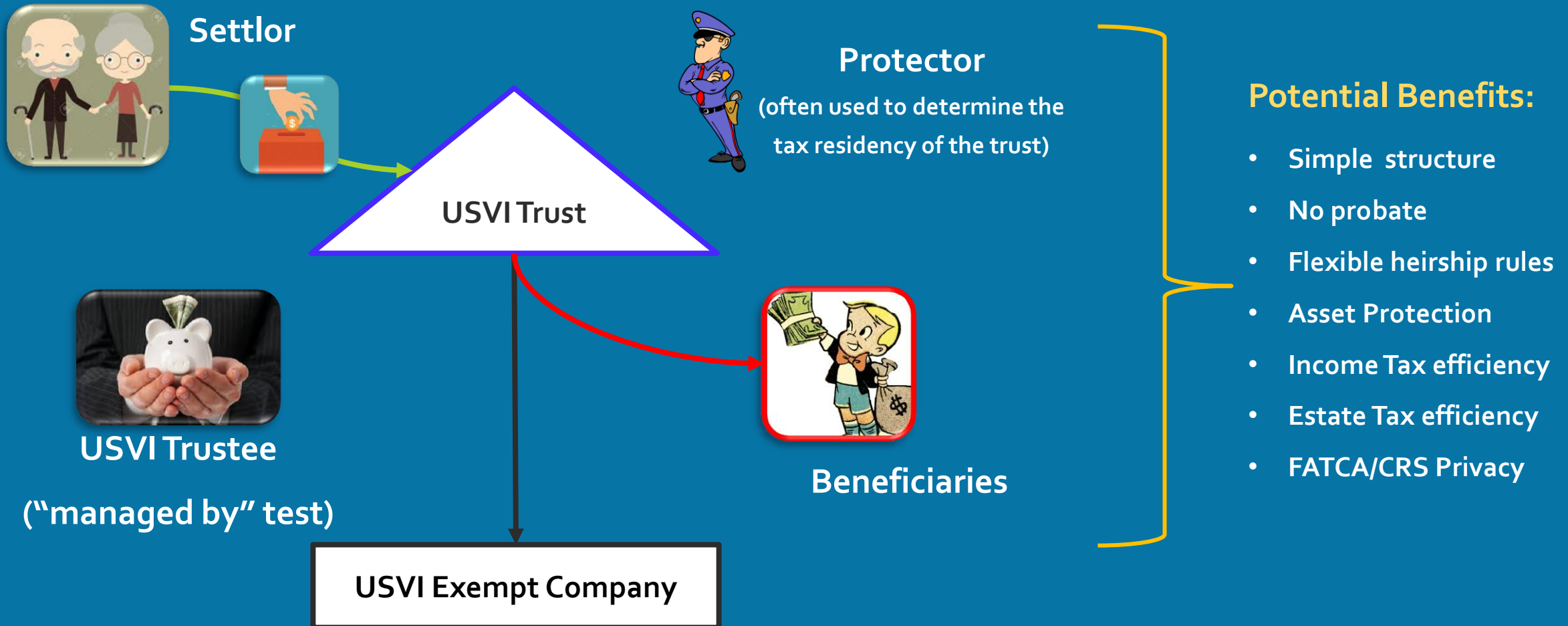
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- **U.S. Virgin Islands exempt companies and their uses**
  - No income tax taxation if requirements are met
- **Additional advantages found in the U.S. Virgin Islands**
  - Mirror system and Territorial Tax Agencies
  - Inapplicability of U.S. Estate Tax



# Planning for a non-U.S. Person

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# Developments in the U.S. Virgin Islands

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- **Asset Protection and pending legislation**
  - High standard of asset protection (*e.g.* self-settled trust statute of limitation of 2 years for fraudulent transfers claims)
  - Potential application of foreign law in case of inheritance / forced heirship



# Thank You

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