Jurisdictions Are Key to Non-953(d) Policies

PPLI: Two Sides of One Face, Part II

Understanding the jurisdictions where wealthy international families operate is essential to Expanded Worldwide Planning (EWP). EWP is the over-arching philosophy of our firm's planning. In Part I of our topic we explored the using a 953(d) compliant PPLI policy. Here we will discuss some uses of the non-953(d) PPLI policy, and how its increased flexibility can solve many planning issues.

Sometimes we tie our blog to a current topic in the news, and this week is no exception. "U.S. on Course to Land on European Tax Blacklist: EU Official" is what caught our eye. The article is by Joe Kirwin courtesy of Bloomberg.

What the OECD finds objectionable in the U.S., can be accomplished using a non-953(d) PPLI policy, and still be fully compliant. This is the case even if the U.S. were to fully acquiesce to the OECD's objections, and change its existing regulations. More on this below.

We will illustrate our points with an example. Mr. LeGrand is a wealthy entrepreneur with several companies that operate outside the U.S. He wishes to pass these companies to his daughter, Angela, who resides in the U.S. Mr. LeGrand also wishes to give Angela access to the profits of these non-U.S. companies in a tax-free manner. Angela is active in operating these companies. This can all be accomplished using a non-953(d) PPLI policy.

Key elements in this planning scenario are diversification and investor control regulations. These regulations must be strictly complied with for a 953(d) PPLI policy or all is for naught. In the example of Mr. LeGrand, we used a non-953(d) PPLI policy, and the insurance company is domiciled in Barbados. The diversification and investor control regulations do not exist in the Barbados tax and insurance code.

Mr. LeGrand can generate profits from his companies on a tax-deferred basis, and continue to operate these companies himself. He also does not have to diversify his holdings as he would on a 953(d) compliant PPLI policy.

Now back to our news article, and a few key paragraphs from it:

"If the U.S. doesn't agree by June 2019 to exchange the bank account details of non-U.S. citizens with governments around the world, it will be placed on the European Union's tax haven blacklist.

The U.S. is on the clock as the 2019 deadline nears for adopting and applying the Organization for Economic Cooperation and Development's common reporting standard, Valere Moutarlier, the EU's head of direct taxation, told a new European Parliament tax investigative committee May 15. The Paradise Papers panel was set up in March following a data leak of more than 13 million files detailing the way wealthy individuals and large companies avoid taxes via offshore structures, such as trusts."

In our example of the LeGrand family, a bank account can be opened by the insurance company, who becomes the beneficial owner of the assets that Mr. LeGrand places inside his PPLI policy. Mr. LeGrand's assets are held by the bank in separate accounts in his name, therefore, he can access the account for his own purposes.

Back to Angela. How can she receive funds from the companies tax-free? Since all assets are inside a properly structured PPLI policy, funds withdrawn from the PPLI have been re-characterized as tax-free loans and not profits subject to taxation.

Angela simple makes these loans for a 25 bps charge, and the loan balance is subtracted from the death benefit when the insured passes. Angela will receive the companies as a tax-free death benefit at the passing of the insured life under the policy.

All questions and comments are greatly appreciated. Please let us know how we can assist you in crafting structures similar to the one used for the LeGrand family

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