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I Am Dying To Pay More Tax

Tax and Estate Planning E-alert

The UK citizen living and working in Australia who appointed another UK citizen living in England as his trustee, had no idea that in so doing he was exposing his estate to payment of UK death duties. Deceased estates are taxed as trusts and therefore by the location of the trustee.

Similarly, patriotism can come at a high price. Take the case of a US citizen who was resident in Australia, with Australian born children, who had not lodged a US income tax return since the 1960s when he migrated to Australia and who, for patriotic reasons, took out US citizenship for his children. It was only after his death that his family discovered the expensive consequences of his patriotism. The United States taxes on the basis of citizenship, not residence or domicile, so the estate was presented with substantial US tax bills.

It is a little known fact that holding a US Greencard exposes an Australian resident to US inheritance tax. Or that there are time limits on persons arriving in Australia to rollover offshore superannuation before it is taxed in Australia as income.

Australians are global citizens with 1 in 5 Australians being born overseas, and with 14% of Australians and a staggering 42.9% of Sydney residents being born overseas from non-English speaking countries. So it is common for their estates, their trustees and their beneficiaries to straddle legal jurisdictions. It is folly to ignore the implications which flow from this.

If a person has worked overseas, there may be pension or insurance entitlements payable on death.

In some countries a willmaker is not free to choose who will receive his assets. Many European countries such as Germany have forced heirship laws directing who the beneficiaries of the estate will be. In other countries there is no separation between the Church and the State. If you have property, family, or business connections in these countries, you need specialist advice and now is the time to seek such advice, before the tax man pays a visit to your family. Thorough estate planning with competent legal and financial advisors is a very worthwhile exercise.

If you have an overseas inheritance path, have you established a global estate management plan? The distribution of your estate is as much a matter of lifetime administration as it is a consequence of your death.

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