

Tax Planning through U.S. Insurance

ITPA Cyprus 20 May 2008

Koen Lozie

Aver Associates Luxembourg S.A.

Tax Haven U.S.A.

- Bank deposits held by foreign persons (Nonresident Aliens, NRAs)
- Life insurance held by foreign persons
- Trusts

Focus: protection oriented products

- Foreigners moving temporarily to the U.S.
- Real estate in the U.S.
- Real estate in France and elsewhere
- Each and every of your clients

Objectives for today

- You find the numbers hard to believe ?
- You do not know anybody with a U.S. life insurance policy ?

Why U.S. life insurance?

- Creating cash to cover inheritance tax
- Guaranteed covers up to age 115-120
- Incontestable clauses

Why would a European want a protection product in USD ?

- Pricing: the most competitive life insurance market in the world
- Pricing: the most competitive segment of the life insurance market in the US
- Pricing: US insurance companies know precisely the risk they are insuring

Your client's money at work

Example 1 – life long

- German, age 64
- Annual premium: 400,000
- Death benefit: 20,0000,000
- Assumed life expectancy $\times 2\% = 40\%$

Your client's money at work

Example 2 – term insurance for 3 years

- Belgian cousins
- Gifts: 2 x 86,000,000,000
- Premium cost: 3 x 100,000
- I.e. a total cost of 0.2% of the gifts

Incontestable clause

- “We will not contest the validity of this policy, except for non-payment of premiums, after it has been in force during the insured’s lifetime for two years from the Policy Date”.
- Assurance that the beneficiary will be the “recipient of a check and not of a lawsuit.”

Incontestable clause

- Objective: to give an assurance to people doubtful of the utility of insurance
- Dishonest persons can take advantage (vs. the great mass of honest policyholders)
- Amex: insured knew he was HIV positive and sent an impostor!

Asset Protection

Protection against insurer creditors:

- using multiple carriers (term insurance)
- investment (variable insurance) products

Asset Protection

Protection against client creditors:

- exemptions under State law (in most states)
- «I agree that this statutory exemption invites abuse ... I reject the objections however »
- our foreign client may still prefer a trust

U.S. Income Tax

- tax-deferred growth of cash value
- income-tax-free receipt of death benefit
- tax free loans
- tax free exchanges between policies

U.S. Estate Tax (life insurance)

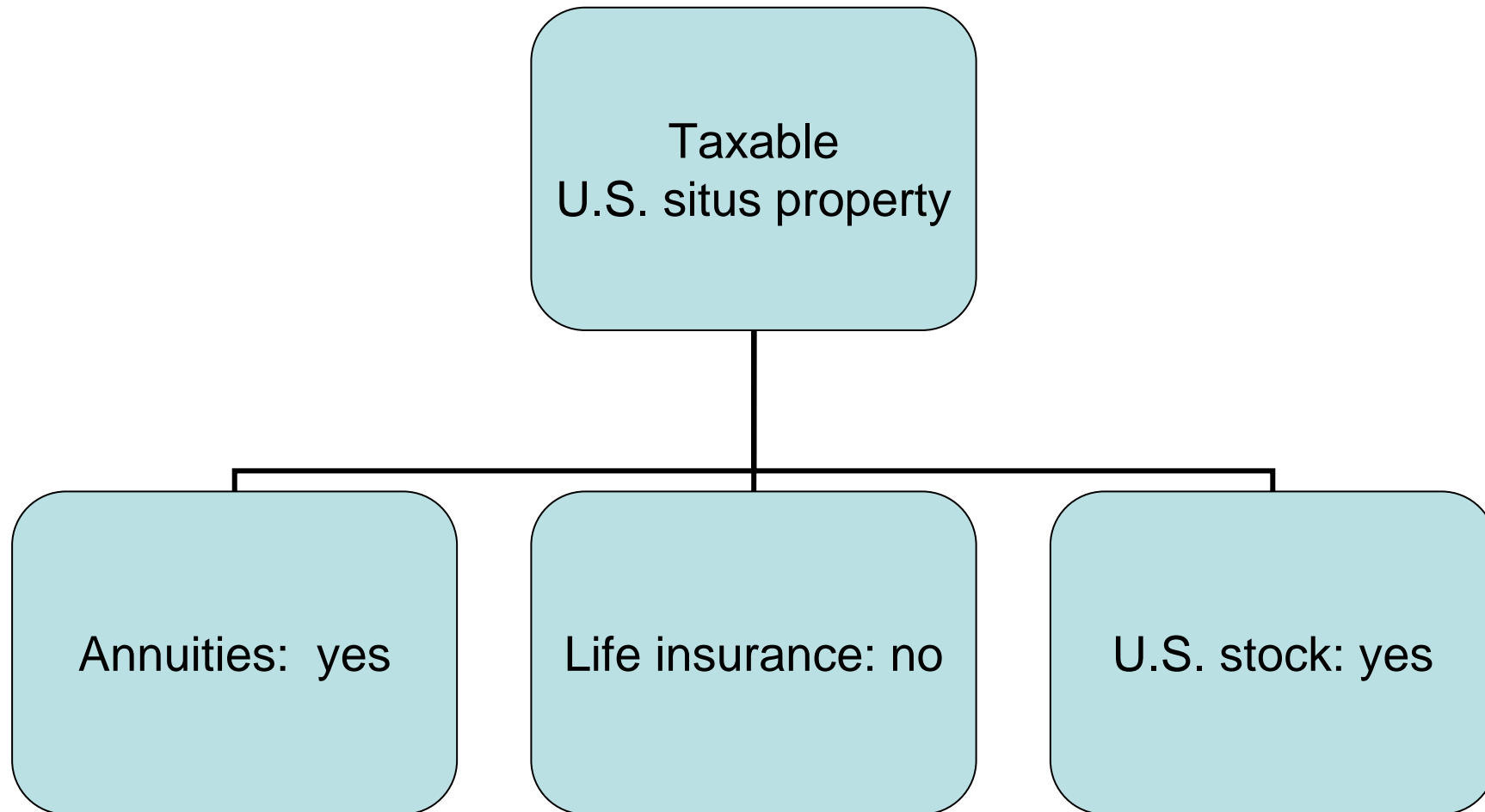
- explicit exemption
- to encourage foreigners
- exceptions apply
- “three on a policy”: be suspicious

Treasury Regulations § 20.2105-1

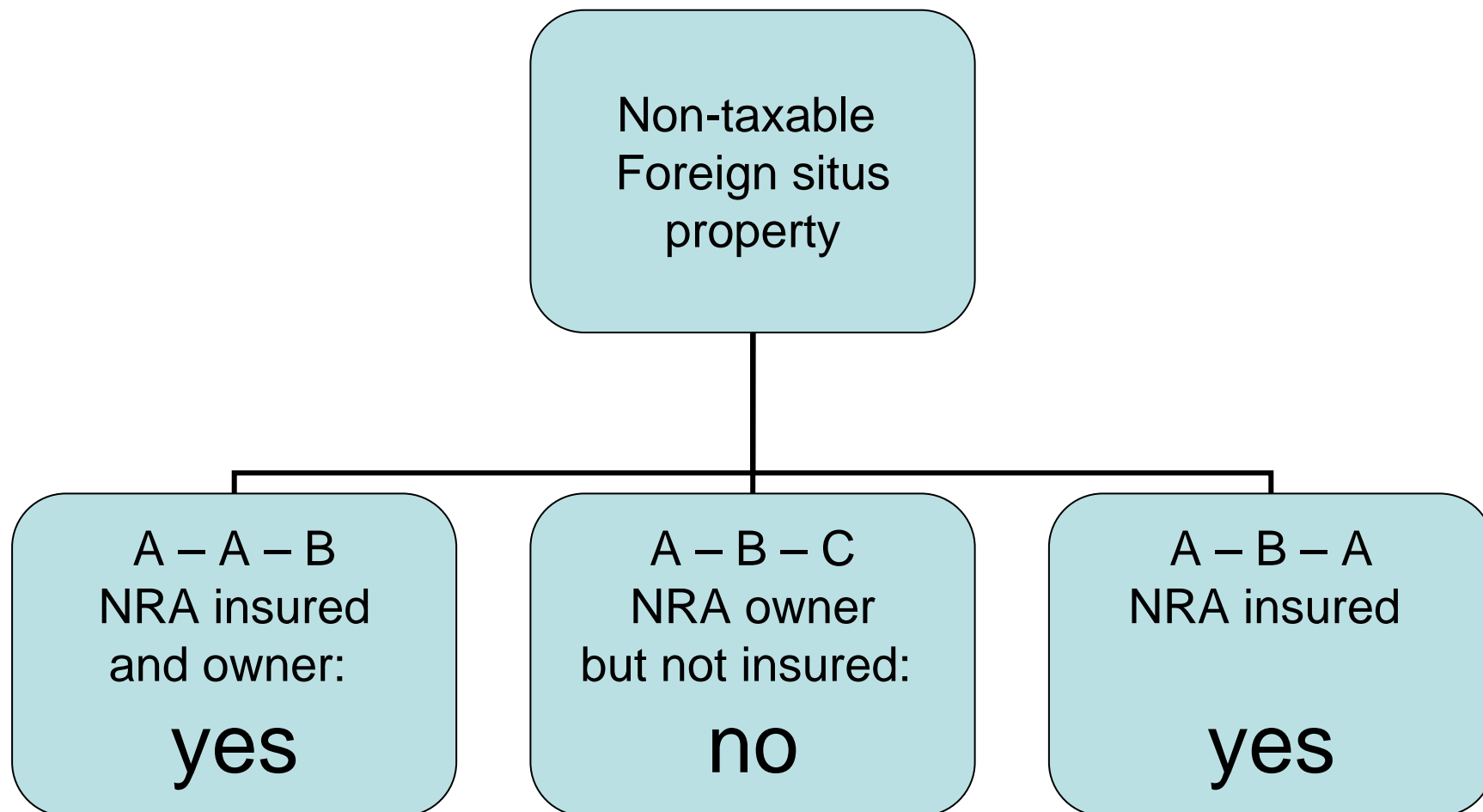
Property of a nonresident who was not a citizen of the United States at the time of his death is considered to be situated outside the United States if it is –

20.2105-1(g) Amounts receivable as insurance on the decedent's life.

U.S. Estate Tax



Exempt scenario's (in the U.S.)



Avoiding U.S. gift tax

- Transfer life insurance policy: yes
- Premium payments: take care

Back to reality: compliance

- Can your client contract?
- Is the U.S. insurer willing to contract?

Practical solutions?

Residence	Place of sale BRUSSELS	Place of sale ZÜRICH	Place of sale LONDON
Belgium	No	(Yes)	No
Switzerland	No	No	(Yes)
EEA	No	Yes	Yes
U.S.	Yes	Yes	Yes
Other countries	Yes	Yes	Yes

Fully compliant solutions

- U.S. trusts
- U.S. LLCs?
- Foreign trusts

Insurable interest

- close family member
- spouse
- grandchildren: financial dependency?
- unmarried partners, cousins, nieces, etc.
- business partnership

Insurable interest

- Delaware
- Georgia
- Maine
- Maryland
- South Dakota
- Virginia
- Washington

How a couple age 55 can turn 1 M into 7.5 M

Second-to-die life insurance

- standard solution
- innovative use for charitable giving

Once a policy is issued, the client can be confident

- Compliance in your client's country
- Incontestable clause
- Tax planning: over to you now