

International Tax Update— Foreign Taxpayers

FICPA 2012 Annual Accounting Show
September 21, 2012

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Is the Individual Client Foreign, U.S., or Foreign But Soon to Become U.S.?

- This has become our most common everyday international tax practice issue—individuals who have moved here or are considering moving here, along with “accidental” U.S. residents and citizens
- Advance planning techniques may differ depending upon the country of origin and how long they plan to stay in the U.S., although it isn’t always easy to be certain
- Will it just be “mom and the kids” or the whole family?
- It’s **NEVER** too late to do U.S. tax, wealth preservation and estate planning, but you can accomplish more with sufficient advance notice

Pre-Immigration Planning—Part I

- Proper timing and implementation are the keys to successful planning
- Foreign trusts provide an excellent opportunity to potentially avoid both U.S. income and estate tax for wealthy foreign individuals expecting to move to the U.S.
- Effective regardless of the status of the settlor/decedent at the time of his death to fund potential U.S. estate tax or increase the value of his estate on a tax-free basis

Pre-Immigration Tax Planning—Part II

- **Accelerate gifts to family members or one or more trusts for their benefit**
- Many assets of foreign individuals can be gifted or sold tax-free—make cash gifts from non-U.S. accounts wherever possible
- Unlimited tax-free gift transfers to trust possible so long as the transferor is a non-U.S. citizen or domiciliary
- This technique can help avoid foreign forced heirship/community property laws—choose a domestic or foreign jurisdiction where the settlor can accomplish his or her dispositive goals
- Gift shares of other foreign entities or other foreign assets as advance estate planning

Pre-Immigration Tax Planning—Part III

- **Accelerate income, defer unrealized losses and deductible expenses**
- Consider making the check-the-box election for qualified foreign entities to trigger gains
- Accelerate rent payments if possible or sell income-producing property
- Accelerate royalties, licensing fees, and other similar payment arrangements, perhaps at a discount if necessary
- Exercise stock options relating to offshore services BEFORE moving to the U.S.
- Accelerate deferred compensation payments relating to offshore services BEFORE moving to the U.S.

Pre-Immigration Tax Planning—Part IV

- Sell appreciated foreign assets and domestic assets where the capital gains would be tax-free for an NRA
- Maintain foreign residency status as long as possible using an applicable U.S. income tax treaty
- Treat installment sales by an NRA as a deemed “election out” where the U.S. would not tax the gains, and consider gifting the obligation
- Planning can mitigate § 679 five-year rule—consider avoiding it through the use of a domestic trust established in a U.S. APT-friendly jurisdiction, using a new trust, a resettled trust, or a completely or partially domesticated foreign trust

U.S. Withholding Tax on Passive U.S. Source Income

- A foreign taxpayer is taxed at a flat 30% rate (the “flat tax”) on certain U.S. source investment type income (often called “FDAPI” or “fixed or determinable annual or periodical income”) not effectively connected with the conduct of a U.S. trade or business
- FDAPI includes (but is not limited to) interest [other than portfolio interest and § 1273 original issue discount (OID)], dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments under §§ 871(a)(1)(A) and (h), 881(a)(1) and (c)

U.S. Withholding Tax on Passive U.S. Source Income

- IRS Forms W-8BEN and W-8IMY
- IRS Forms 1042 and 1042S
- Withholding liability can exist even without an actual payment, as FDAPI includes income deemed paid by one related party to another under § 482, see Central de Gas de Chihuahua, S.A., 102 T.C. 515 (1994)
- **The withholding agent is liable for unpaid tax under § 1461**—a very common problem for U.S. corporations and partnerships with foreign ownership, and foreign owned U.S. rental properties

The Portfolio Interest Exemption²

A Great Planning Opportunity

- Foreign lenders may receive tax-free interest when paid by an “unrelated” U.S. borrower
- No limitations on terms, except the U.S. borrower and the foreign lender must use typical arm’s-length loan agreements
- Family members are “unrelated” for direct loan purposes, but check the complex attribution rules for entity borrowers and lenders
- Contingent interest taxed at regular 30% rate
- Form W-8BEN must be received by the borrower before any payments are made to the lender

What Type of Entity Is The Foreign Entity?

- Another very common international tax practice issue—individuals with interests in foreign entities
- For U.S. tax purposes, they could be corporations, partnerships, trusts, or disregarded entities
- U.S. tax and compliance rules vary substantially depending upon the type of entity
- Facts, circumstances, and applicable foreign laws may control entity treatment

Form 8832

- A foreign eligible entity may adopt a classification different from its default classification by filing Form 8832
- The effective date can generally be 75 days prior to the date Form 8832 is filed, with certain procedures available to extend the ability to make a “retroactive election.” Please note, although some of these procedures are “automatic” (e.g., see Rev. Proc. 2009-41 allowing a late election up to 3 years and 75 days of the requested effective date) one might need to apply for a Private Letter Ruling to obtain relief if you are “very late”
- **NOTE:** the election to treat an entity classified as a corporation into an entity that is classified as a partnership or disregarded entity constitutes a liquidation of that entity and may have associated U.S. income tax consequences

Threshold Questions For “Hybrid” Clients

- What type of visa does the client want? Working? Student? Green Card? Will the rest of the family also need visas?
- Is the client prepared to pay U.S. income tax on worldwide income?
- Is the client prepared to report worldwide assets to the IRS?
- Is the client prepared to pay U.S. gift tax on worldwide gifts?
- Are the client’s heirs prepared to pay U.S. estate tax on the client’s worldwide estate?
- Are the client prepared to preserve assets from being taken by potential creditors under the U.S. legal system?

U.S. Income Tax Residence Rules

- U.S. citizens ✓
- U.S. Green Card ✓ (possible treaty exception)
- 183 days or more in a calendar year ✓ (possible treaty exception)
- 30 days or less in a calendar year —not a U.S. resident
- Substantial Presence Test—3 year rule (add total days in current year, 1/3 of days in prior year, and 1/6 of days in second prior year)—if 183 days or more ✓ unless either a “closer connection” to a foreign country (Form 8840) or deemed to be a resident of a treaty country under a “tiebreaker” rule (Form 8833), 121 days per year maximum avoids this
- Special rules for students, diplomats, certain other individuals, and limited medical condition situations arising in the U.S. that prevent the individual from leaving the U.S.

U.S. Estate and Gift Tax Residence Rules

- Not the same as U.S. income tax rules
- U.S. citizens ✓
- U.S. domiciliary ✓ (possible treaty exception)
- Domicile determination is based upon the intent of the person as manifested by the facts showing permanent abode
- NRADs only have a **\$60,000 estate tax exclusion** and no gift tax exclusion other than the annual exclusion
- Annual exclusion gifts (\$13,000 for 2012) and to non-citizen spouses (\$139,000 for 2012)
- It is possible to be an income tax **resident** and a **nondomiciliary** for U.S. estate and gift tax purposes
- Medical conditions **don't** avoid income tax residence, but **may** avoid U.S. domiciliary status

Does Your Foreign Client Have a U.S. Trade or Business with Effectively Connected Income?

- Having a U.S. office, employee, or dependent agent can have severe, unexpected related consequences for a foreign business
- Title passage test applies for inventory sales to determine source
- Foreign (as well as U.S.) sales income can be taxable by the U.S. if there is too much of a U.S. presence and there are ongoing U.S. contract negotiations and sales—if at all possible, keep these activities offshore
- Services performed in the U.S. are subject to tax, but **NOT** services performed outside of the U.S.

Does Your Client Have a U.S. Trade or Business with Effectively Connected Income?

Things to avoid if practically possible :

- **Don't** have business cards or a web site with a U.S. address
- **Don't** have salesmen of the foreign business negotiate and conclude contracts while in the U.S.—“please send e-mail orders to my foreign office and it can help you”
- Have title to goods sold pass **outside** of the U.S. (for example, “F.O.B. Guayaquil”)
- For a **service business**, only perform work while not present in the U.S., and prepare an appropriate written service agreement that confirms this

Inbound Use of U.S. Income Tax Treaties

- The U.S. has an extensive network of income tax treaties which may provide extensive benefits to U.S. persons and treaty country residents—use Form 8833 for “treaty-based positions” or W-8BEN as applicable
- Reduced or eliminated withholding tax on passive income
- Higher standard than regular U.S. tax law for treaty country residents conducting business in the U.S.—the “permanent establishment” with attributable “business profits”

Inbound Use of U.S. Income Tax Treaties (continued)

- Special rules for determining income tax residence—the “treaty tiebreaker test” may provide substantial planning opportunities
- Reduced U.S. branch profits tax rates and special exclusions
- 15% “qualified dividend” rule has resulted in treaty-shopping attempts by rearranging existing “bad” structures—will they work?

Inbound Use of U.S. Income Tax Treaties (continued)

- “Limitation of benefits,” “business purpose” and other anti-treaty shopping rules to prevent “third country party” use of treaties—see, e.g., Aiken, Del Commercial Properties
- “Savings clauses” prevent treaties from overriding general U.S. tax rules for U.S. citizens
- Exchange of information between the “competent authorities” of each country—automatic, simultaneous, spontaneous, specific

Form W-7, Application for IRS Individual Taxpayer Identification Number

- New form revised January, 2012
- An ITIN is a nine-digit number issued by the IRS to individuals who are required for U.S. tax purposes to have a U.S. taxpayer identification number but who do not have and are not eligible to get a social security number (SSN)
- Form W-7 does not apply if you have an SSN or you are eligible to get an SSN as a U.S. citizen, U.S. green card holder or admitted for U.S. employment

**Application for IRS Individual
 Taxpayer Identification Number**
 ▶ For use by individuals who are not U.S. citizens or permanent residents.
 ▶ See instructions.

OMB No. 1545-0074

An IRS individual taxpayer identification number (ITIN) is for federal tax purposes only.

FOR IRS USE ONLY				

Before you begin:

- **Do not submit** this form if you have, or are eligible to get, a U.S. social security number (SSN).
- **Getting an ITIN does not change your immigration status or your right to work in the United States and does not make you eligible for the earned income credit.**

Reason you are submitting Form W-7. Read the instructions for the box you check. **Caution:** If you check box **b, c, d, e, f, or g, you must file a tax return with Form W-7 unless you meet one of the exceptions** (see instructions).

- a Nonresident alien required to get ITIN to claim tax treaty benefit
 - b Nonresident alien filing a U.S. tax return
 - c U.S. resident alien (**based on days present in the United States**) filing a U.S. tax return
 - d Dependent of U.S. citizen/resident alien } Enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ▶ _____
 - e Spouse of U.S. citizen/resident alien } _____
 - f Nonresident alien student, professor, or researcher filing a U.S. tax return or claiming an exception
 - g Dependent/spouse of a nonresident alien holding a U.S. visa
 - h Other (see instructions) ▶ _____
- Additional information for a and f: Enter treaty country ▶ _____ and treaty article number ▶ _____

Name (see instructions) Name at birth if different ▶	1a First name	Middle name	Last name
	1b First name	Middle name	Last name

Applicant's mailing address

2 Street address, apartment number, or rural route number. **If you have a P.O. box, see separate instructions.**

City or town, state or province, and country. Include ZIP code or postal code where appropriate.

Foreign (non-U.S.) address
(if different from above)
(see instructions)

3 Street address, apartment number, or rural route number. **Do not use a P.O. box number.**

City or town, state or province, and country. Include ZIP code or postal code where appropriate.

Birth information

4 Date of birth (month / day / year) Country of birth City and state or province (optional) **5** Male Female

Other information

6a Country(ies) of citizenship **6b** Foreign tax I.D. number (if any) **6c** Type of U.S. visa (if any), number, and expiration date

6d Identification document(s) submitted (see instructions) Passport Driver's license/State I.D.
 USCIS documentation Other _____ Date of entry into the United States (MM/DD/YYYY) _____

Issued by: _____ No.: _____ Exp. date: ____/____/____

6e Have you previously received a U.S. temporary taxpayer identification number (TIN) or employer identification number (EIN)?
 No/Do not know. Skip line 6f.
 Yes. Complete line 6f. If more than one, list on a sheet and attach to this form (see instructions).

6f Enter: TIN or EIN ▶ _____ and
 Name under which it was issued ▶ _____

6g Name of college/university or company (see instructions) _____
 City and state _____ Length of stay _____

Sign Here

Under penalties of perjury, I (applicant/delegate/acceptance agent) declare that I have examined this application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to disclose to my acceptance agent returns or return information necessary to resolve matters regarding the assignment of my IRS individual taxpayer identification number (ITIN), including any previously assigned taxpayer identifying number.

Keep a copy for your records.	Signature of applicant (if delegate, see instructions)	Date (month / day / year)	Phone number
	Name of delegate, if applicable (type or print)	Delegate's relationship to applicant	<input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Power of Attorney

Acceptance Agent's Use ONLY

Signature	Date (month / day / year)	Phone
Name and title (type or print)	Name of company	Fax
		EIN
		Office Code

Form W-7, Application for IRS Individual Taxpayer Identification Number

- Acceptance Agents (AAs) are persons (individuals or entities such as colleges, financial institutions, accounting firms, etc.) who have entered into formal agreements with the IRS that permit them to assist applicants in obtaining ITINs
- Certifying Acceptance Agents (CAAs) are individuals or entities who are also authorized to verify the applicant's claim of "identity" and "foreign status" through a review of appropriate documentation, as well as verifying the authenticity, accuracy and completeness of the supporting documentation

Form W-7, Application for IRS Individual Taxpayer Identification Number

- AAs may submit Form W-7, attached U.S. Federal income tax return, and any supplemental documentation to the IRS, but only facilitate the application, as they are not authorized to issue the ITIN directly
- Once the ITIN is issued, the AA receives the applicant's number directly from IRS
- AAs/CAAs may charge a fee for their services
- A list of authorized Acceptance Agents is available on the IRS website

Form W-7

Any individual who is not eligible for an SSN but who must furnish a taxpayer identification number must apply for an ITIN on Form W-7—examples:

- NRA eligible for reduced U.S. withholding tax benefits under a U.S. income tax treaty
- NRA required to file a U.S. tax return or filing only to claim a refund
- NRA who elects to file a joint U.S. tax return with a U.S. citizen or resident alien spouse
- U.S. substantial presence test resident alien who files a U.S. tax return
- Alien spouse claimed as an exemption on a U.S. tax return
- Alien individual eligible to be claimed as a dependent on a U.S. tax return
- NRA student, professor, or researcher who is required to file a U.S. tax return, or who is claiming an exception to the tax return filing requirement
- A dependent/spouse of an NRA U.S. visa holder
- Undocumented immigrants

Form W-7

- Under the prior procedure, copies of the required documents could be submitted if they were notarized by a U.S. notary public legally authorized within his or her local jurisdiction to certify that the document was a true copy of the original. To do this, the notary had to see the valid, unaltered, original document and verify that the copy conforms to the original
- Notarizing Officers at U.S. Embassies and Consulates overseas could provide these notarial and authentication services
- Such copies could also be submitted if they were notarized by a foreign notary under the Hague Convention procedures for countries that have joined the Hague Convention
- Under these procedures, a certification is issued in the form of an “apostille” attached to the copy of the document
- If the document originated in a country that is not party to the Hague Convention, applicants were required to have the document certified by the issuing foreign authority

New ITIN Rules Causing Havoc

- Effective June 22, 2012, the IRS made significant interim changes to the ITIN application process
- The IRS indicated that these changes were required due to substantial fraud occurring in the application process
- Unlike the Social Security Administration, which requires an individual to submit “original” documents to obtain a Social Security Number (SSN), the IRS has accepted notarized copies of documents for ITINs
- The IRS intended the interim procedures to apply only to applicants generally seeking ITINs for the purposes of filing U.S. individual income tax returns, but they actually have a much broader scope
- Because the April 17 filing deadline had passed, the IRS anticipated that a small number of taxpayers would need ITINs before the end of 2012, when new rules will supposedly be issued
- However, the IRS failed to take into account the lack of desire to send in original documents that practitioners and taxpayers fear will disappear into the proverbial bureaucratic black hole

New ITIN Rules Causing Havoc

- The IRS now only issues ITINs when applications include original documentation, such as passports and birth certificates, or certified copies of these documents from the issuing agency
- ITINs will not be issued based on applications supported by notarized copies of documents
- In addition, ITINs will not be issued based on applications submitted through certified acceptance agents unless they attach original documentation or copies of original documents certified by the issuing agency

New ITIN Rules Causing Havoc

- Persons who need ITINs to get their tax return processed can do so by submitting their original documentation or certified copies of their documentation by mail
- Documentation will be accepted at IRS walk-in sites but will be forwarded to the ITIN centralized site for processing
- Some categories of W-7 ITIN applicants are not impacted by these interim changes
- Military spouses and dependents without an SSN who need an ITIN, by providing a copy of the spouse or parent's U.S. military identification, or applying from an overseas APO/FPO address

New ITIN Rules Causing Havoc

- NRAs applying for ITINs for the purpose of claiming tax treaty benefits (use boxes a and h on Form W-7)
- New ITIN applications of this category that are accompanied by a US tax return are subject to the new interim document standards
- The key problem: NRAs often need ITINs for reasons besides filing a U.S. tax return—third-party withholding for various income, such as FIRPTA, certain gambling winnings or pension income, and for other information reporting purposes
- FIRPTA Forms 8288/8288-A/8288-B ITIN filing status and requirements are presently uncertain
- Existing documentation standards will be maintained only for these applicants, but IRS scrutiny of the documents will be heightened

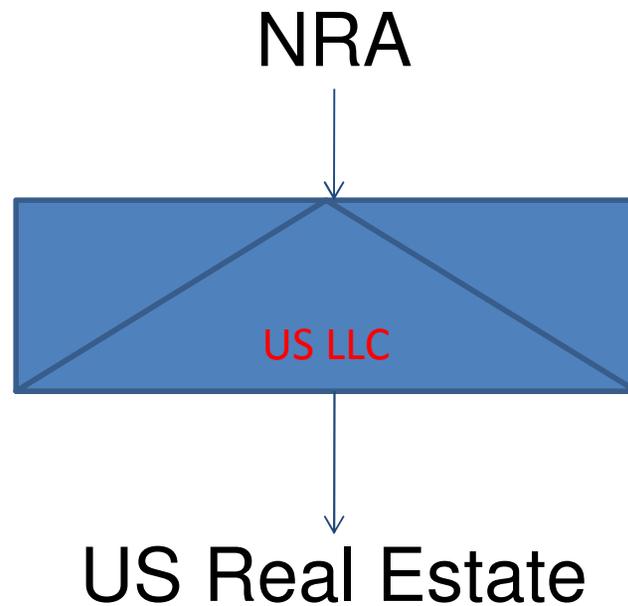
What Structure Should I Recommend to an NRA Investing in the U.S.?

- Income tax savings and estate tax avoidance—can a foreign investor enjoy both?
- Investment structures for many foreign persons now **MUST** be transparent—a complete switch from the way we used to practice!
- Many existing structures now need to be changed to become transparent—and it can have a significant U.S. income tax cost

Alternative U.S. Investment Planning Structures For NRAs

- There are at least **seven** different types of potential investment structures for foreign investment in the United States
- Each has potentially different U.S. income and estate tax consequences
- Consider the need for asset protection/limited liability—foreign investors often are unaware of our litigious society

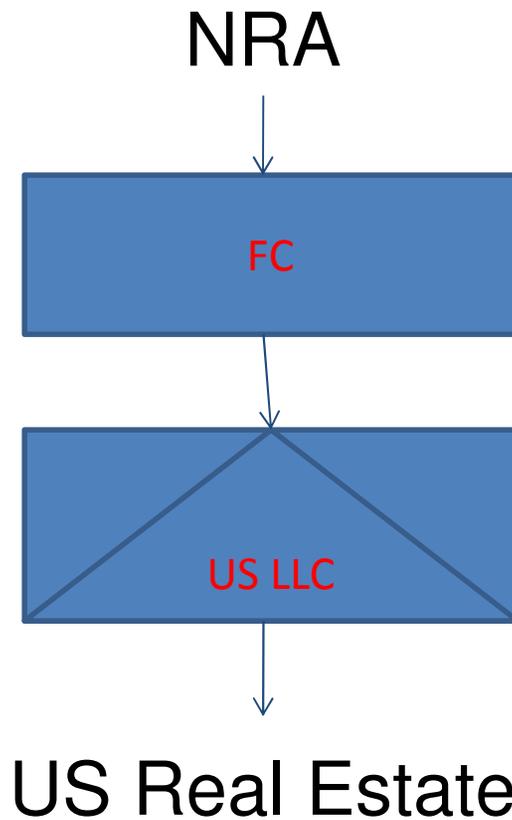
Structure 1 NRA Directly Owns U.S. Real Estate Pass-Through Structure



Structure 1[?] Attributes

- 15% long-term capital gains rate available
- Only one level of U.S. income tax
- NRA must file Form 1040NR, no anonymity
- No BPT or BLIT applies
- FIRPTA withholding applies when the U.S. real estate is sold
- No U.S. estate tax protection
- No deduction or capitalization of expenses permitted if there is never any income generated by the U.S. real estate
- No liability protection

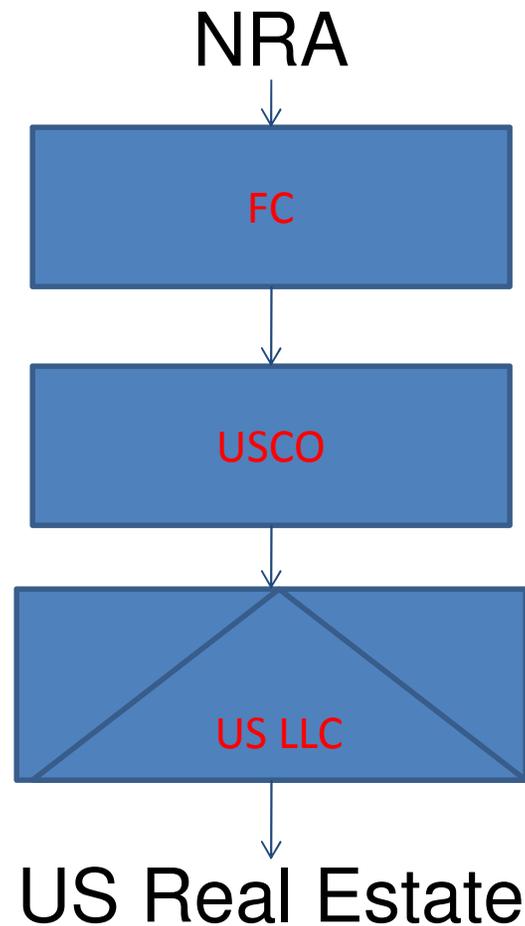
Structure 2 Foreign Corporation Non-Pass-Through Structure



Structure 2 ☐ Attributes

- No long-term capital gains rate available
- Federal and state corporate income taxes apply
- FC must file Form 1120F, limited anonymity for NRA
- BPT or BLIT may apply
- FIRPTA withholding applies when U.S. real estate is sold
- Likely U.S. estate tax protection
- No deduction or capitalization of expenses permitted if there is never any income generated by the U.S. real estate
- Limited liability protection for NRA
- **This is the most “traditional” form of planning for NRAs**

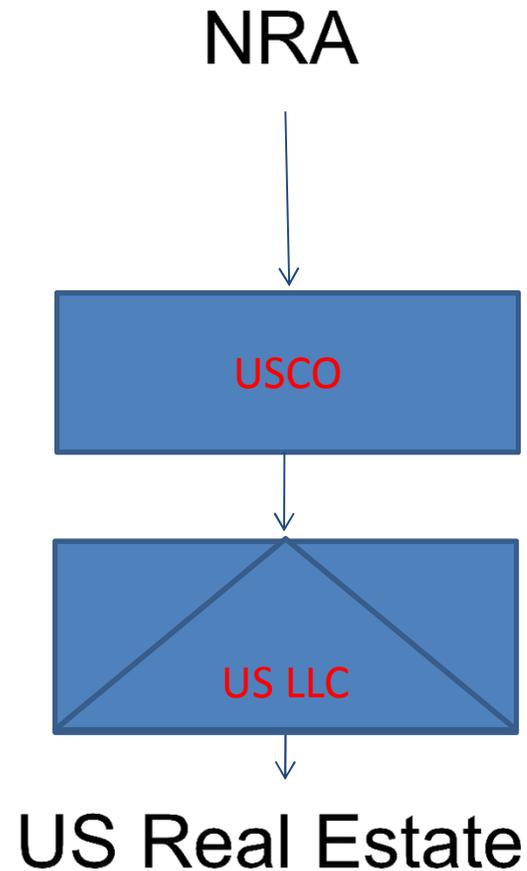
Structure 3 Foreign and Domestic Corporation Non-Pass-Through Structure



Structure 3(b) Attributes

- No long-term capital gains rate available
- Federal and state corporate income taxes apply
- USCO must file Form 1120, no return generally required for FC, limited anonymity for NRA
- In general, no BPT or BLIT
- No FIRPTA withholding when U.S. real estate is sold, no second-level tax if proper planning
- Likely U.S. estate tax protection
- Deduction or capitalization of expenses generally permitted
- Limited liability protection for NRA

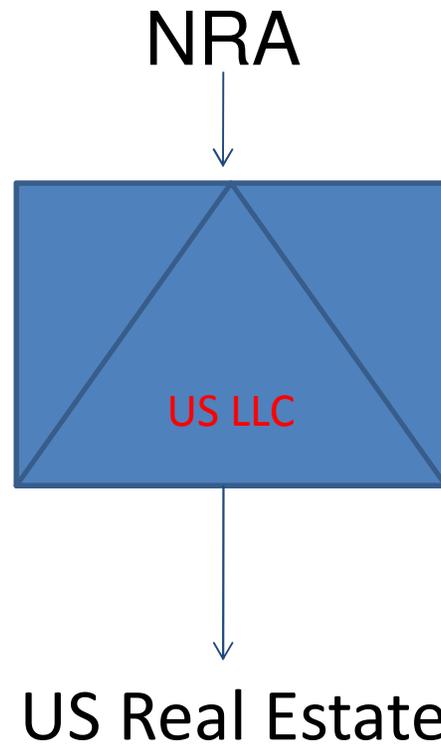
Structure 4 ☐ Domestic Corporation Non-Pass-Through Structure



Structure 4[?] Attributes

- No long-term capital gains rate available
- Federal and state corporate income taxes apply
- USCO must file Form 1120, limited anonymity for NRA
- No BPT or BLIT
- No FIRPTA withholding when U.S. real estate is sold, no second-level tax if proper planning
- No U.S. estate tax protection unless certain treaties apply
- Deduction or capitalization of expenses generally permitted
- Limited liability protection for NRA

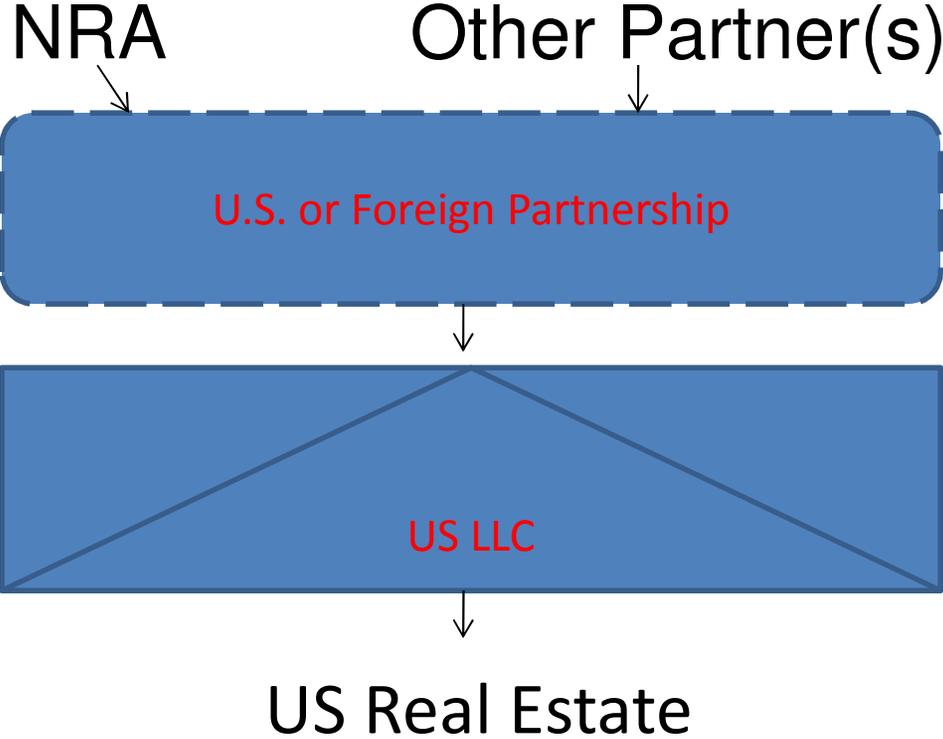
Structure 5 Single Member Domestic LLC Pass-Through Structure



Structure 501 Attributes

- 15% long-term capital gains rate available
- Only one level of U.S. income tax
- NRA must file Form 1040NR, no anonymity
- No BPT or BLIT applies
- FIRPTA withholding applies when U.S. real estate is sold if a single-member LLC
- No U.S. estate tax protection
- No deduction or capitalization of expenses permitted if there is never any income generated by the U.S. real estate
- Limited liability protection for NRA

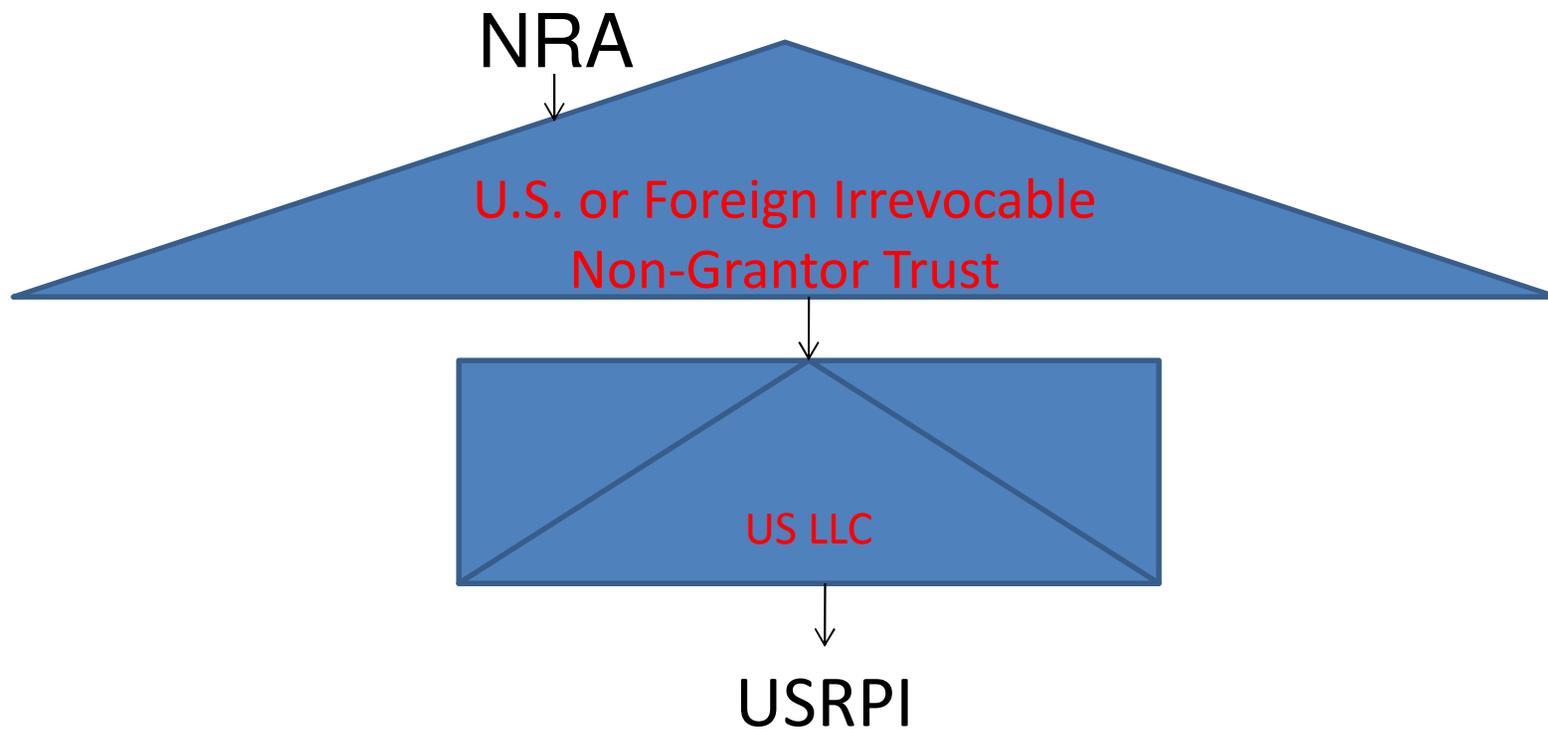
Structure 6 Foreign or Domestic Partnership,
Pass-Through Structure



Structure 6? Attributes

- 15% long-term capital gains rate available
- Only one level of U.S. income tax
- NRA must file Form 1040NR using K-1, no anonymity
- No BPT or BLIT applies
- § 1446 withholding applies when the U.S. real estate is sold with regard to NRA's partnership interest
- U.S. estate tax protection is uncertain—the more foreign layers, the better
- Deduction or capitalization of expenses generally permitted
- Limited liability protection for NRA

Structure 7 **U.S. or Foreign Non-Grantor Irrevocable Trust** **Pass-Through Structure**

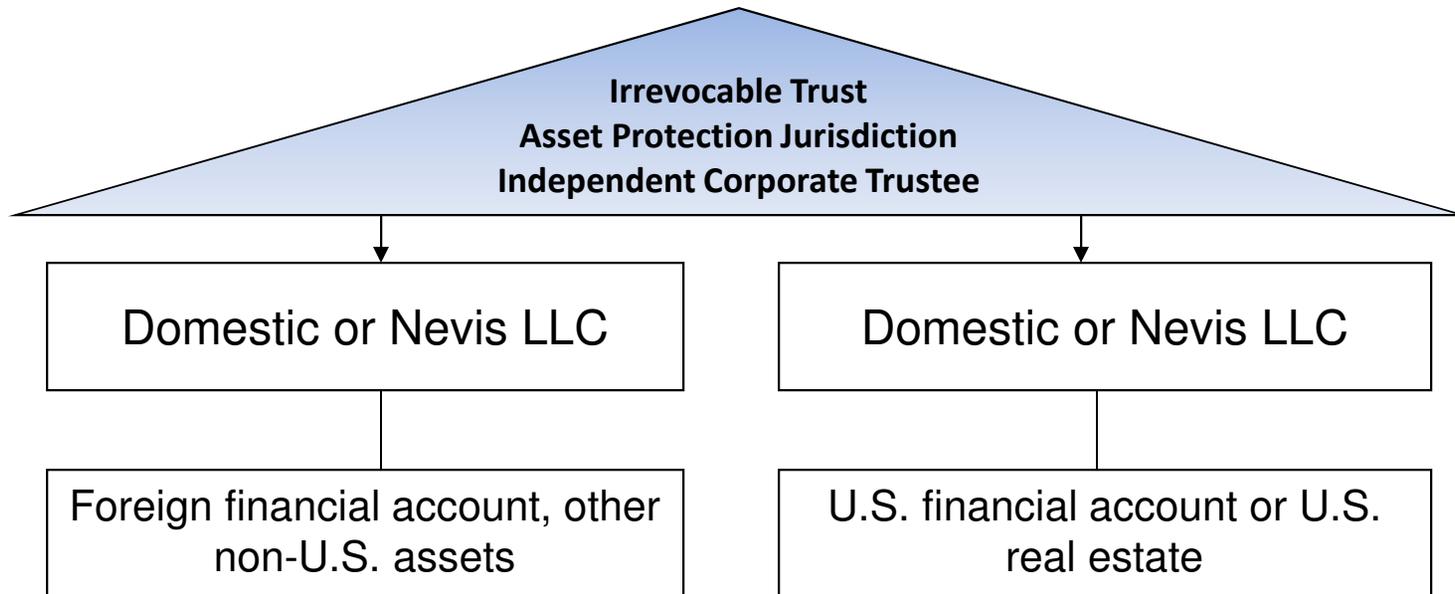


Structure 7[?] Attributes

- 15% long-term capital gains rate available
- Only one level of U.S. income tax
- Trust generally must file Form 1040NR, anonymity for NRA
- No BPT or BLIT applies
- FIRPTA withholding applies when U.S. real estate is sold
- Likely U.S. estate tax protection
- No deduction or capitalization of expenses permitted if there is never any income generated by the U.S. real estate
- Limited liability protection for NRA
- **This can be the best overall structure for the right NRA client**

“State of the Art” Planning[?]

“Emergency Funds Trust” for Settlor, Spouse, and Family



Note—the timing of potential U.S. tax “check-the-box elections” for each holding company will need to be determined, along with the trust jurisdiction, trustee and the protector or advisory committee.

FATCA Approaches

- The Hiring Incentives to Restore Employment (“HIRE”) Act was signed into law on March 18, 2010
- Under the Foreign Account Tax Compliance Act (“FATCA”) new §§ 1471 through 1474,, a withholding agent must withhold 30% of the amount of any withholdable payment to a foreign financial institution (an “FFI”) which does not comply with certain reporting requirements for U.S. accounts
- These rules are generally effective for payments made after December 31, 2012, subject to certain grandfathering rules, but the related reporting and withholding requirements will be phased in over several years due to continuing ongoing negotiations
- See February 15, 2012 Proposed Rules on FATCA Implementation and Draft Forms W-8BEN and W-8BEN-E

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Individuals)
 ▶ For use by individuals. Entities must use Form W-8BEN-E.
 ▶ Information about Form W-8BEN and its separate instructions is at www.irs.gov/formw8ben.
 ▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

- Do NOT use this form if:**
- You are NOT an individual W-8BEN-E
 - You are a U.S. citizen or other U.S. person, including a resident alien individual W-9
 - You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the U.S. (other than personal services) W-8ECI
 - You are a beneficial owner who is receiving compensation for personal services performed in the United States 8233 or W-4
 - A person acting as an intermediary W-8IMY

Instead, use Form:

Part I Identification of Beneficial Owner (see instructions)

<p>1 Name of individual who is the beneficial owner</p>	<p>2 Country of citizenship (do not abbreviate)</p>
<p>3 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.</p> <p>City or town, state or province. Include postal code where appropriate. Country (do not abbreviate)</p>	
<p>4 Mailing address (if different from above)</p> <p>City or town, state or province. Include postal code where appropriate. Country (do not abbreviate)</p>	
<p>5 U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)</p>	<p>6 Foreign tax identifying number (see instructions)</p>
<p>7 Reference number(s) (see instructions)</p>	

Part II Claim of Tax Treaty Benefits (if applicable)

8 I certify that the beneficial owner is a resident of _____ within the meaning of the income tax treaty between the United States and that country.

9 Special rates and conditions (if applicable—see instructions): The beneficial owner is claiming the provisions of Article _____ of the treaty identified on line 8 above to claim a _____ % rate of withholding on (specify type of income): _____.

Explain the reasons the beneficial owner meets the terms of the treaty article: _____

Part III Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- 1** I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income to which this form relates or am using this form to document myself as an individual that is an owner of a foreign financial institution,
- 2** The person named on line 1 of this form is not a U.S. person,
- 3** The income to which this form relates is:
 - (a) not effectively connected with the conduct of a trade or business in the United States,
 - (b) effectively connected but is not subject to tax under an income tax treaty, or
 - (c) the partner's share of a partnership's effectively connected income.
- 4** The person named on line 1 of this form is a resident of the treaty country listed on line 8 of the form (if any) within the meaning of the income tax treaty between the United States and that country, and
- 5** For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner. I agree that I will submit a new form if any certification made on this form becomes incorrect.

Sign Here ▶ _____
 Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY)

 Print name of signer Capacity in which acting (if form is not signed by beneficial owner)

Form **W-8BEN-E**
(Rev. December 2012)

Certificate of Status of Beneficial Owner for United States Tax Withholding (Entities)

OMB No. 1545-XXXX

Department of the Treasury Internal Revenue Service
 ▶ For use by entities, individuals must use Form W-8BEN. ▶ Section references are to the Internal Revenue Code.
 ▶ See separate instructions. ▶ Give this form to the withholding agent or payer. Do not send to the IRS.

- Do NOT use this form for:**
- U.S. entity or U.S. citizen or resident W-9
 - Any foreign individual W-8BEN (Individual)
 - A foreign individual or entity claiming that income is effectively connected with the conduct of trade or business within the U.S. W-8ECI
 - A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) W-8SIMY
 - A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected U.S. income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) W-8ECI or W-8EXP
- Note:** These entities should use Form W-8BEN-E if they are claiming treaty benefits.
- Any person acting as an intermediary W-8SIMY

Part I Identification of Beneficial Owner (see instructions)

<p>1 Name of organization that is the beneficial owner</p>	<p>2 Country of incorporation or organization (do not abbreviate)</p>
<p>3 Chapter 3 Status (Must check one box only):</p> <p> <input type="checkbox"/> Simple Trust <input type="checkbox"/> Grantor trust <input type="checkbox"/> Corporation <input type="checkbox"/> Disregarded entity <input type="checkbox"/> Partnership <input type="checkbox"/> Central Bank of Issue <input type="checkbox"/> Tax-exempt organization <input type="checkbox"/> Complex trust <input type="checkbox"/> Estate <input type="checkbox"/> Government <input type="checkbox"/> Private foundation </p> <p>If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>4 Chapter 4 Status (Must check one box only unless otherwise indicated) (see instructions for details)</p> <p> <input type="checkbox"/> Nonparticipating FFI (including limited branch or affiliate of participating FFI) <input type="checkbox"/> Excepted start-up company. Complete Part XIV. <input type="checkbox"/> Participating FFI. Complete Part IV. <input type="checkbox"/> Excepted nonfinancial entity in liquidation or bankruptcy. Complete Part XV. <input type="checkbox"/> Registered deemed-compliant FFI. Complete Part IV. <input type="checkbox"/> Excepted hedging/financing center of non-financial group. Complete Part XVI. <input type="checkbox"/> Owner-documented FFI. Complete Part V. <input type="checkbox"/> Restricted distributor. Complete Part XVII. <input type="checkbox"/> Certified deemed-compliant nonregistering local bank. Complete Part VI. <input type="checkbox"/> Territory financial institution. Complete Part XVIII. <input type="checkbox"/> Certified deemed-compliant non-profit organization. Complete Part VIII. <input type="checkbox"/> Publicly traded NFFE. Complete Part XIX. <input type="checkbox"/> Certified deemed-compliant FFI with only low-value accounts. Complete Part IX. <input type="checkbox"/> Affiliate of publicly traded NFFE. Complete Part XX. <input type="checkbox"/> Foreign government or government of U.S. possession. <input type="checkbox"/> Excepted Territory NFFE. Complete Part XXI. <input type="checkbox"/> Foreign central bank of issue. Complete Part X. <input type="checkbox"/> Active NFFE. Complete Part XXII. <input type="checkbox"/> Entity wholly owned by exempt beneficial owners. Complete Part XII. <input type="checkbox"/> Passive NFFE. Complete Part XXIII. <input type="checkbox"/> Excepted nonfinancial holding company. Complete Part XIII. <input type="checkbox"/> Not applicable (merchant submitting this form solely for purposes of Section 6050W) </p> <p>May check one or both of the following:</p> <p> <input type="checkbox"/> Certified deemed-compliant retirement plan. Complete Part VII. <input type="checkbox"/> Exempt retirement funds. Complete Part XI. </p>	
<p>5 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.</p> <p>City or town, state or province. Include postal code where appropriate. Country (do not abbreviate)</p>	
<p>6 Mailing address (if different from above)</p> <p>City or town, state or province. Include postal code where appropriate. Country (do not abbreviate)</p>	
<p>7 U.S. taxpayer identification number, if required (see instructions)</p> <p><input type="checkbox"/> FFI-EIN <input type="checkbox"/> QI-EIN <input type="checkbox"/> EIN</p>	<p>8 Foreign tax identifying number (see instructions)</p>
<p>9 Reference number(s) (see instructions)</p>	

You Too Can Be an IRS Whistleblower!

- Bradley Birkenfeld, formerly of UBS, just received \$104 million for his role in forcing UBS to turn over the names of 4,500 U.S. tax evaders to the IRS and to pay a \$780 million fine to the IRS
- For serving his 2½ year jail sentence (he didn't tell the IRS everything), he was paid about \$4,600/hour
- Use IRS Form 211 to collect your just reward

Form 211 (Rev. December 2007)	Department of the Treasury - Internal Revenue Service Application for Award for Original Information	OMB No. 1545-0409 Date Claim Received: _____ Claim No. (completed by IRS) _____
1. Name of individual claimant	2. Claimant's Date of Birth Month Day Year	3. Claimant's SSN or ITIN
4. Name of spouse (if applicable)	5. Spouse's Date of Birth Month Day Year	6. Spouse's SSN or ITIN
7. Address of claimant, including zip code, and telephone number		
8. Name & Title of IRS employee to whom violation was reported		9. Date violation reported:
10. Name of taxpayer (include aliases) and any related taxpayers who committed the violation:		11. Taxpayer Identification Number(s) (e.g., SSN, ITIN, or EIN):
12. Taxpayer's address, including zip code:		13. Taxpayer's date of birth or approximate age:
14. State the facts pertinent to the alleged violation. (Attach a detailed explanation and all supporting information in your possession and describe the availability and location of any additional supporting information not in your possession.) Explain why you believe the act described constitutes a violation of the tax laws.		
15. Describe how you learned about and/or obtained the information that supports this claim and describe your present or former relationship to the alleged noncompliant taxpayer(s). (Attach sheet if needed.)		
16. Describe the amount owed by the taxpayer(s). Please provide a summary of the information you have that supports your claim as to the amount owed. (Attach sheet if needed.)		
Declaration under Penalty of Perjury I declare under penalty of perjury that I have examined this application, my accompanying statement, and supporting documentation and aver that such application is true, correct, and complete, to the best of my knowledge.		
_____ 17. Signature of Claimant		_____ 18. Date
MAIL THE COMPLETED FORM TO THE ADDRESS SHOWN ON THE BACK		