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PRESENTATION

Operator

Good afternoon, ladies and gentlemen. Welcome to the Estate Tax Planning for Canadians with U.S. Connections Conference Call. I would now like to turn the meeting over to André Bastian, Director of Distribution Channels at Manulife Private Wealth. Please go ahead, Mr. Bastian.

André Bastian, Director, Distribution Channels, Manulife Private Wealth

Thank you very much. Good afternoon, everyone. Thank you for taking the time to join the call today. As introduced, my name is André Bastian. I am Director of Distribution Channels for Manulife Private Wealth, and on behalf of Manulife Private Wealth, I welcome you to the call.

This presentation is for informational use only. Manulife Private Wealth, Manulife and its employees do not provide U.S. or Canadian tax advice. You should seek the assistance of a cross-border specialist should you believe any of today's content may be relevant to your personal situation.

We are recording this call. A copy of the recording will be available to any participants upon request. If you have any questions after the call, please contact your Manulife private wealth consultant.

Our first guest is Susannah Roth of O'Sullivan Estate Lawyers. O'Sullivan Estate Lawyers was named one of Canada's top five trust and estates boutiques by *Canadian Lawyer* in 2012. Susannah's practice has exclusively focused on trust and estate law since her call to the bar in Ontario in 2002. Susannah has published numerous articles on the subjects of wills drafting and estate administration. Susannah is a member of the Society of Trust and Estate Planners, STEP Canada, and is a member of its magazine's editorial board. She is a past member of the Ontario Bar Association Council, a past Chair of the Ontario Bar Association Trust and Estate Section Estate Executive, and a Trustee of the Ontario Bar Association Foundation. Susannah is also the 2011 recipient of the Ontario Bar Association's Heather McArthur Memorial Young Lawyers Award.

The Moderator today is Hemal Balsara from Manulife. Hemal Balsara is a member of the Manulife Financial Tax and Estate Planning Team, and works closely with Manulife Private Wealth to support our high net worth clients, helping to deliver integrated assurance and tax planning solutions. Hemal contributes to various publications, including the *Canadian Tax Highlights* and the *Canadian Taxation of Life Insurance*. He is a chartered professional accountant and is a member of the CPA Ontario. Hemal has also obtained the Certified Financial Planning designation. He is also a member of STEP Canada, the Canadian Tax Foundation, and the Estate Planning Council of Toronto.

Hemal, over to you.

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Excellent. Thanks André. Let's jump into this. In order to appreciate U.S. tax issues, we need to appreciate whether these U.S. tax issues are applicable to a person. I would like to ask Susannah, who is an American?

Susannah B. Roth, Partner, O'Sullivan Estate Lawyers

For U.S. transfer tax purposes or U.S. estate tax purposes, we usually talk about U.S. persons as being the relevant definition, and basically, a U.S. person is anyone who is a U.S. citizen or holds the U.S. green card, or is currently domiciled in the U.S., so if they're living in the U.S., they're fairly permanently settled there, they would be considered a U.S. person for U.S. transfer tax purposes, and the reason that this is relevant is if your client or someone in their family is a U.S. person, or they have a beneficiary who's going to inherit something from them or be gifted something from them who's a U.S.

person, or if they own property that's situs in the U.S., which I'll get to that definition in a minute, then they could be subject to U.S. transfer taxes, including U.S. gift and estate tax. U.S. situs property would be any real estate that's located in the United States itself.

Also if the client owns U.S. securities directly—it's not through an RSP, for example—but if they own it through an investment portfolio and there's enough of them in that portfolio that they're fairly substantially weighted in U.S. investments, then they might also be considered to be over the threshold for U.S. situs property and they could be subject to U.S. estate tax for that reason as well. It's important to remember when you're thinking about whether a client is going to be into U.S. state tax or gift tax regime to also remember that the U.S. trades estate—things to be—part of a person's estate which Canadians would not consider to be part of their estate, so retirement plans with beneficiaries, life insurance with beneficiaries, jointly-held assets, these are all considered to be part of a person's estate for U.S. purposes, so it's important to remember that as well.

Hemal, you were going to then talk to us about what exactly we need to know about U.S. estate and transfer tax purposes, given the recent legislative changes in the U.S. specifically.

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Absolutely. Thanks, Susannah. In the U.S. there are a variety of different taxes. Two of the more common ones are taxes on income, or income taxes, and transfer taxes, and as Susannah mentioned, transfer taxes occur on the transfer of assets during one's lifetime or at death. U.S. transfer taxes are an issue that are clearly important to U.S. citizens living in Canada, but are equally important to their family members who may not be U.S. persons. The U.S. imposes tax on transfers of property during life under the gift tax rules, and on bequest of death, under the estate tax rules. U.S. citizens and non-U.S. citizens, domiciliaries, are subject to the estate and gift tax regime on transfers of property, no matter where in the world they live. Such individuals are afforded an exclusion amount, or tax credit, that can be used to exempt gift tax on transfers during life and estate tax at death.

For 2017, the estate tax exemption was $5.49 million. For 2018, as part of the U.S. tax reform, the exemption amount has doubled to US$11.18 million, with an applicable top marginal tax rate of 40 percent, so I'm just going to repeat that for the benefit of the group. For 2017, the estate tax exemption was $5.49 million, but as part of the U.S. tax reform we've now doubled the exemption and now it's US$11.18 million (inaudible) for that, and it's applied at a top marginal tax rate of 40 percent. This new higher exemption will be in place for the next several years. However, the U.S. estate tax exemption increase has a sunset clause. This sunset clause will cause the U.S. estate tax exemption to revert to the lower amount indexed for inflation, or about $6.5 million, which is basically a number of $5 million (inaudible) for inflation for the past several years on January 1, 2026. This may create some planning questions that Susannah's going to discuss in her section.

The annual exclusion for gifts for the calendar year for 2018 is US$15, 000 per recipient. Gifts which are under the annual exclusion limit will not use any—use up any of the lifetime exclusion. U.S. estate tax and gift tax is a complex area of tax. Transfers to surviving U.S. citizen spouses qualify for the marital deduction and the marital deduction allows for all property that's included in the gross estate of the decedent to be passed to the surviving spouse on an estate tax-deferred basis. This is similar to the Canadian equivalent of the spousal rollover rules that defer income taxes to the second death of two spouses. The marital deduction allows for the potential of not having any estate tax apply at the death of the first spouse. The marital deduction also allows for non-taxable gifts between U.S. spouses during their lifetimes.

What's important to remember is that the marital deduction is denied when the surviving spouse is not a U.S. citizen. This can create issues when dealing with a married couple consisting of a U.S. citizen spouse and a non-U.S. citizen spouse. The U.S. also has a generation-skipping tax on gifts and bequests that skip a generation, such a gift—such as a gift from a grandparent to a grandchild. A discussion of this tax is outside of the scope of this call. Suffice to say, when considering transferring assets to a skip person and either the transferor or the transferee is a U.S. person, consideration of these rules is advised.

U.S. estate and gift tax also impacts non-U.S. citizens and non domiciliaries, as Susannah mentioned. Persons who are non-U.S. citizens, like a Canadian, are subject to U.S. estate tax and gift tax on transfers of U.S. situs property only. U.S. situs property includes U.S. real property secured by the U.S. corporation’s intangible personal property located in the U.S. A non-resident alien with U.S. situs property—so that's what a Canadian would be called—is allowed a unified credit of US$13 thousand, which exempts the first $60,000 of the estate from estate tax. This can, of course, result in substantial U.S. estate and/or gift tax for non-U.S. citizens, nondomiciliary persons, with U.S. situs property transfers on life or death. Fortunately, the Canada/U.S. treaty provides some relief, and a Canadian resident is entitled to an expanded credit based on the ratio of the decedent's individual U.S. situs assets to his or her worldwide assets, so the estate tax exemption is pro-rated by dividing the date of death—value of one's U.S. situs property by the date of death value of one's worldwide assets, and this is calculated based on U.S. tax principles, not Canadian tax principles.

It's also important to note that the convention only applies to U.S. estate tax and does not apply to U.S. gift tax. In general, non-resident aliens are subject to the federal gift tax on gifts of their interest in U.S. real estate and tangible personal property located in the U.S. There is no expanded credit available on gifts from non-resident aliens of assets which are subject to U.S. gift tax. Where a Canadian resident is liable for U.S. estate tax, the estate tax payable may qualify for tax credit relief under the protocol. The amount of the credit is based on the Canadian tax payable in respect to the decedent's income or profits arising in the U.S., capital gains on United States real property, and on certain other U.S. situs assets. Similarly, where a U.S. citizen is liable for U.S. estate tax and Canadian capital gains taxes, the protocol allows for the U.S. citizen to claim a credit against the U.S. federal estate taxes payable equal to the Canadian taxes payable on the deed of disposition of property located outside of the U.S.

A question that we often get is what's the benefit of this increase limit, and with proper planning and execution the increase in the (inaudible) credit increases the amount of U.S. situs property that Canadians may own before they are exposed to U.S. estate tax. As mentioned earlier, the Canada/U.S. Treaty allows Canadian residents a pro-rata portion of the unified credit. Under these new rules, Canadians will be subject to estate tax on U.S. situs property only if their worldwide net worth at death exceeds $11.18 million. With proper planning, a husband and wife would be subject to the estate tax only if their worldwide net worth exceeds $22.36 million. Note however, in order to obtain the benefit of the increased credit, the Canadian decedent must file a U.S. estate tax return or the estate's basis in the property will be U.S. zero.

Now that you understand a little bit about U.S. transfer taxes, I've got a question for Susannah. Do you have any planning considerations for U.S. estate tax?

Susannah B. Roth, Partner, O'Sullivan Estate Lawyers

There are a number of planning options. Before I get into that, I just want to say the recent legislative changes in the U.S. also have a—there's a few things arising out of that that one should be careful of. The new higher exclusion limit does appear to be factored into the Canada/U.S. Tax Treaty. There was a bit of a question when it first came out as to whether that was the case, but it does appear that that is actually going to work across borders, but when the new exclusion limit actually sunsets in 2026, one question is whether there would be a claw back for gift tax purposes, so if someone was to gift more than the exclusion limit during the—or the old exclusion limit during the period when the exclusion limit is higher, and then the exclusion limit falls back to a lower level, there is a question mark as to whether they might, at that point. then, owe back gift tax because they would then be over the exemption limit, so something to keep in mind if you've got a situation where a client is going to be gifting a significant amount and using the new higher gift tax exemption limit to do so, but then with respect to planning options, there are several planning techniques that are available when you do have a situation where the clients are going to be over the overall exclusion limit, either individually or as a couple, and then there also are some planning techniques for Canadians who own U.S. property and want to get out of the U.S. estate tax regime.

For example, if you've got a client who is a Canadian, not a U.S. person, and who owns a vacation property in the U.S.—if they've bought a Florida condo—there is a cross-border trust that's available that they can own the properties through this particular type of trust, and if it's properly set up, it would be outside of the U.S. estate tax regime because of the way that the trust is—that the trust ownership structure actually works. You want to be careful when—though with clients that they'll sometimes go to—when they go to their U.S. lawyer about purchasing a property in the U.S. and the U.S. lawyer will say, "Oh, you should put this in an LLC or you should put this in a U.S. corporation." They really, really need to get cross-border tax advice before they implement any of those types of planning techniques because they can have a really horrid cross-border tax consequences, like double, triple tax consequences, which would be really devastating for the client, so you have to be careful about those kinds of planning techniques.

They may work if you're a U.S. person living in the U.S. owning property there, but often they will not work cross-border because Canada treats certain entities that work from the U.S. perspective totally differently under our tax regime, so care needs to be taken and proper advice obtained before the planning techniques are implemented. Once they've been purchased a certain way it can be more difficult to unwind afterwards, so pre-planning is always better. In terms of planning for estate tax matters, there are several different types of special kinds of trusts that clients can put in their wills in order to plan to either avoid or minimize U.S. estate tax.

For example, if you've got a Canadian whose child has moved down to the U.S. and is now married to a U.S. person and is living down there, and the Canadian would like to leave them a certain portion of their estate, there is a trust called a bypass trust, which, if certain restrictions are implemented in the terms of the trust, then the U.S. child's interest in that—the funds that are in that trust will not be considered to be their property for U.S. estate tax purposes, so if the child was going to be over the U.S. exemption limit with those funds from the trust, then you could implement this kind of trust planning in order to keep some of the funds out of their U.S. estate for estate tax purposes.

When you have a couple, either one or both of whom are U.S. persons, there are also several different spousal trust techniques. I'm not going to get into a lot of details about them today because they are very technical, but there are things called a QTIP trust. There's also a QDOT trust, which is a different type of thing which can allow deferrals of a state tax for a non-U.S. spouse from a U.S. spouse, and there are also—if the couple, or one of the couple have life insurance, there's a thing called an ILIT, which is an irrevocable life insurance trust, which can be used to reduce the value of the estate and avoid estate tax on the value of life insurance, bearing in mind that life insurance proceeds are considered to be part of a person's estate for U.S. estate tax purposes, so even with the new, quite large exemption, if you have a client who has a hefty life insurance policy, that could be the thing that pushes them over the top for U.S. estate tax purposes, so in their situation an ILIT may be a really good planning technique, so that's a really summary review of the types of planning options that are available when you've got cross-border issues like this.

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Perfect. Thanks, Susannah. Thanks for those suggestions. I've got another question for you. What are some estate administration issues that impact Canadian estates with U.S. people involved?

Susannah B. Roth, Partner, O'Sullivan Estate Lawyers

Again, because there's—you've got U.S. planning techniques and estate and gift tax issues, those will spill over into the estate administration and can cause complications if they're not planned for, even if they are planned for in some cases, so for example, Canada has recently finally implemented the non-resident trust tax rules. These have been in draft format in one version or another on the books for quite a number of years, but they finally were implemented, and if you've got a client who is leaving a trust for a U.S. child, for example, and the U.S. child is going to be the trustee of that trust, and the intention is that the trust will migrate to the U.S., which would make sense if the child and their kids and their spouse are all U.S. persons and living in the U.S., not planning to come back to Canada, you have to be careful in terms of the estate administration of the parent's estate not to fund that trust too quickly or it could get into the non-resident trust tax rules for Canadian purposes, which would end up (inaudible)—having the trust be subject to those rules and be taxed more than it would otherwise be taxed.

I've got a situation right now in an estate where (inaudible) actually happening where the U.S. resident child is having to wait to have their trust funded until the estate administration is completed completely, whereas the Canadian resident child doesn't have to wait, so it's trading a bit of an imbalance between the two kids, which is unfortunate just because of the non-resident tax rules. There's nothing that they can do about it other than be unhappy, which, in this case, they're not too pleased about the situation, but it's sort of like there's nothing else you can do other than keep the trust tax resident in Canada, which in this circumstance doesn't make a whole lot of sense, so that's an example of ways that cross-border tax complications can complicate an estate administration.

There's also cross-border practical administration problems. A lot of U.S. states have restrictions on who can be an executor under a property in that state, so example, a Florida condo. A non-resident trust company cannot be an executor in Florida, so if your client wants to appoint a trust company as their executor, that'll be great, but the trust company will have to appoint a Florida resident trust company or lawyer in order to do the work there. They will not be able to directly administer Florida assets. Other states have similar restrictions, or will have different restrictions, so it's important to know what the restrictions are in the state where the property's held in case where you've got a client who owns U.S. property;

also important to know that a lot of U.S. states have an expanded probate process.

In Ontario, for example, the probate—and this is true across Canada—the probate process is fairly straightforward. If you've got a will, you apply for a certificate of appointment, or a probate grant, depending on what it's called in your province, and once the grant is issued by the court, chances are you're never going to have to go back to court and do anything else ever again. Here's your certificate. Goodbye. Don't contact us unless you've got a problem. In U.S. states, a lot of the times what is necessary is that the executors have to open probate, so provide a lot of documentation and information about the estate, and then they will have to go back to court and provide an accounting and close out the probate process, so it's much more expansive. A judge will review what they've done, ask questions, sometimes reject what they provided to the court. It's not an over-the-counter process. It's much more intrusive. It's much more time consuming, and it's much more expensive, so these are all things to know about ahead of the time, and also, Hemal, as you mentioned, if you own U.S. property, you will have to do your estate—executors will have to file U.S. estate tax returns, regardless of whether or not any tax is actually owing, so those are some of the complications that can arise in a cross-border estate administration.

Hemal, from my experience I know that there are some complications that can arise, additional complications, different complications that can arise when there's a Canadian corporation in the mix and you've got a cross-border situation. Can you tell us a little more about that?

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Absolutely. Before I jump into that, I really wanted to focus on three main issues in this section, and the first is really talking really briefly about the tax rate changes. The second aspect of this is talking about the new transition tax, and then ending off with estate freezes, and even though they're great from a Canadian perspective, they can represent complexities for U.S. individuals. In terms of tax rate changes, I'm going to touch on it at a very high level as it relates to the U.S. tax reform.

One of the most dramatic provisions in the U.S. tax reform was the reduction of the corporate income tax rate from 35 percent to 21 percent for taxable years beginning after December 31, 2017. It's worth noting that with this momentous cut in corporate tax rates, the combined U.S. federal and state effective tax rates have now come to about an average low of about 27 percent, which is right in the ballpark of the combined Canadian federal and provincial corporate rates. Meanwhile in the U.S.—meanwhile, both U.S. and Canadian tax rates for individuals remain high. In the U.S., we're looking at about combined state and federal, about 43 percent. Meanwhile in Canada, we're looking at about a combined 47 percent, depending on average across the board, so note that in the U.S. the top tax rates kick in at a much higher income threshold.

For example, if you have—if you've got an individual, we're looking at about US$500k, plus for the individual to be in the top marginal tax rate. Meanwhile, for married jointly, joint couple we're looking at about $600 thousand U.S., versus in Ontario the combined top marginal tax rate kicks in at about $220 thousand. These lower corporate tax rates in the U.S. are going to motivate clients to revisit their plannings on how best to distribute funds. There are a variety of considerations, including the U.S. tax regime on passive income and passive earnings inside a U.S. corporation, which can lead to higher U.S. tax on passive income in the corporation. Another consideration is—from a Canadian tax perspective is the application of foreign anti-deferral regimes, such as the Canadian tax rules around foreign accrual property income, which results in passive income generated in the U.S. corporations be recognized in the Canadian shareholders tax return, and that can either be a corporate shareholder or a personal shareholder, and we can have these (inaudible) rules potentially apply.

The other piece of the puzzle here was there were changes to individual income tax rates as well. We saw it drop. Top marginal tax rate went from 39.6 percent to 37 percent, so when I reference the average rate in the U.S. is about 43 percent, what I meant was that was the federal and the state tax combined, so just federally, we're looking at 37 percent now, 35 percent from 32 percent, 24 percent, 22 percent, 12 percent, and 10 percent as the thresholds, and increased income thresholds at each tax bracket as well. However, one thing to note is the reductions weren't achieved without cost. They've eliminated a lot of personal exemptions and suspended certain itemized deductions, and I'm not going to be touching on those today.

The second part of the ballgame that's really relevant for U.S. persons with a Canadian corporation is the transition tax, and basically the new U.S. tax code, section 965, imposes a one-time transition tax payable by U.S. persons, including individuals who own at least 10 percent voting stock in a foreign corporation, so if a U.S.

person owned shares in a Canadian corporation and it represents 10 percent of the voting stock, these rules would be applicable, and the tax imposed on the deferred income of such foreign incorporation, which constitutes accumulated post 1986 earnings and profits, or E&P, at two different rates. Where we have cash and cash equivalents assets, we're subject to a rate of 15.5 percent equivalent percentage, and for non-cash assets, we're looking at about a 8 percent tax on that. Every U.S. person who owns an interest in a controlled foreign corporation, or owns at least 10 percent of the voting stock in a foreign corporation, will have to pay this one-time tax either as a lump sum, or in installments spread out over eight years. One fact to note is the passive foreign investment corporation rules that's not a controlled foreign corporation is excluded from this transition tax.

The transition tax is particularly onerous because it applies not only to cash and cash equivalents held outside of the U.S., but also hard business assets representing an investment of earnings in the business. Moreover, this transition tax appears to penalize individual U.S. shareholders, whereas corporate U.S. shareholders will generally be able to repatriate foreign earnings through dividends on an exempt basis thanks to the generous dividend received deduction, which is beyond the scope of this call. Individual U.S. shareholders are offered no such relief and must continue to rely on the foreign tax credit to avoid this double taxation. One thing to note is the IRS recently issued a notice 2018-07 which basically explicitly stated that transactions undertaken for the principal purpose of reducing the aggregate cash position subject to the transition tax will be disregarded.

As a planning point, U.S. persons with foreign corporations based in Canada will be well advised to take a closer look at the manner in which the foreign corporation has calculated its E&P for U.S. tax purposes. There may be some differences. It's also useful to know that all earnings and profit, or E&P, that’s subject to these transition tax will be treated as a previously taxed income, therefore future distributions of these amounts to U.S. corporate shareholders—and note, I said corporate shareholders—would not trigger any further U.S. tax upon actual receipt, although a dividend distribution is likely going to be subject to foreign withholding tax. The other thing to note is the transition tax impacts individual and corporate shareholders alike, notwithstanding that U.S. individual shareholders would not be able to participate in the dividend exemption regime.

This transition tax could be a particularly hard pill to swallow for a Canadian resident who happens to be a U.S. citizen or green card holder and holds shares in a CCPC with significant retained earnings, or a Canadian holding company to which the earnings of a Canadian operating company have been distributed over time. If nothing is done, the transition tax would occur on the U.S. side of the equation without any corresponding Canadian tax credit. The transition tax would not be recognized as a foreign tax credit for Canadian tax purposes because the tax does not relate to foreign sourced income from the Canadian perspective. This essentially leads to double tax for these U.S. citizens residing in Canada. I would highly recommend that if you have a client impacted by these rules, they should consult a cross-border specialist.

The third part of my discussion now is going to focus on estate freezes, and with respect to estate freezes, it's effectively a common estate planning strategy used by high net worth Canadian shareholders of Canadian private corporations to basically freeze their ownership interest on a tax-deferred basis, and to directly or indirectly transfer future growth to other parties. This is most commonly achieved by transferring common shares to family members. Such a transaction may be accomplished through the tax-deferred exchange of the shareholders common shares for fixed value prep shares of the private corporation.

Some of the Canadian advantages to an estate freeze include limiting the amount of taxes paid on debt, future appreciation in the private corporation accruing to the next generation, and the facilitation of income splitting. One thing to note is the income-splitting benefit has been significantly reduced due to the tax on split income rules, which came effective January 1, 2018 of this year. However, where the person who wishes to freeze his or her ownership interest is—in a Canadian corporation is a U.S. citizen and resident in Canada, U.S. tax law creates many impediments to the implementation of an estate freeze. These include the U.S. non-recognition, special valuation provisions for U.S. gift tax, U.S. anti-deferral and foreign non-grant or trust rules. A detailed discussion of these rules is beyond the scope of this call.

However, I do have some general comments on the non-recognition of gift tax rules. In a typical Canadian estate freeze, the preferred shares in exchange for the common shares are both redeemable and retractable. These features cause problems under U.S. law, as the preferred shares will be considered non-qualified preferred stock. As a result, the exchange generally becomes a taxable event for the freezer for U.S. income tax purposes since the share exchange would no longer meet the criteria of a U.S. tax deferred transfer of shares.

The U.S. gift tax rules, likewise, present a hurdle for U.S. citizens resident in Canada seeking to implement an estate freeze, as they contain a special valuation provision for valuing the growth common shares that would normally be issued to younger family members in the freeze. The value of these common shares will include the value of the preferred shares unless qualified payments or periodic fixed cumulative dividends are made on the preferred shares. Dividends paid on the preferred shares in a typical Canadian estate freeze usually are non-cumulative, and often do not have to be paid prior to dividends on the common shares.

As such, the typical freeze results in a gift from the U.S. freezer in the amount of the entire value of the company, which is a huge number. The freezer could be subject to U.S. gift tax on the entire amount of the gift, and would either need to pay gift tax or use up a portion of the lifetime exclusion. Having qualified payments associated with pref shares would greatly reduce the Canadian benefits associated with an estate freeze, as such, incoming splitting and passing through the growth to the next generation, so in a nutshell an estate freeze—it's a great idea for Canadians, but where U.S. people are involved, it represents significant complexity, and it's—I highly recommend consulting a cross-border expert in terms of actually walking through the issues and planning around an estate freeze as well.

Now I want to ask Susannah a question. What are some practical considerations you have to cross-border planning?

Susannah B. Roth, Partner, O'Sullivan Estate Lawyers

Thank you, Hemal. Basically, when you're looking at cross-border issues and you've got someone who's got a U.S. connection of some kind, the first thing to think about is really what is the cost-benefit analysis of the planning that you're thinking about doing? There's no point in implementing planning for a client that's going to cost more than it's going to save them at the end of the day, so in some cases it's really—our advice to the client is really, you know what, just pay the tax. You're going to have some U.S. estate tax, but if it's minimal it's probably going to be cheaper to just pay $5, 000 in U.S. estate tax rather than do a whole lot of complicated and expensive trust planning, for example, so sometimes that's the solution.

Other times joint ownership may be a solution, or obtaining a life insurance policy with—the proceeds of which can pay the U.S. estate tax. In some cases, those are really practical and cheaper options available to the client, so you always want to think about what's really practical for this particular client and do they want to get into these complex cross-border structures, or would they rather really just keep it simple. Some clients really are quite adverse to complex structures. They don't understand them. They don't like them. They don't want them, and in that case just say, "Well, you know what? Get a life insurance policy and then the life insurance policy will pay the tax," and that's how you deal with the issue, and as we say, it means the more complicated your structure, and if there's a U.S. person involved, the results can be really scary and can require a whole lot of time and effort on the part of the practitioners and all of the advisors for the client in order to implement properly, so really, in some circumstances, just makes more sense to do things a little simpler.

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Perfect. Thank you, Susannah. Do you have anything else you wanted to add on that?

Susannah B. Roth, Partner, O'Sullivan Estate Lawyers

No, I don't think so. The only thing I might add—sorry—I say that, but on the cross-border corporate estate freeze issues, I just—I did want to add one thing, that when you get into an estate freeze that involves a trust as well, which often they do, the shares will be issued not directly to the kid. The gross shares will be issued to a trust instead of directly to the children. If one of those children resides in the U.S., or has become a U.S. person, then the complication can grow exponentially as well, so that's another point.

Hemal Balsara, CPA, CA, CFT, TEP, Assistant Vice President of Tax & Estate Planning, Manulife Financial, Toronto

Absolutely. No. Thank you for that.

André, I'm going to turn it over to you to close out the call.

André Bastian, Director, Distribution Channels, Manulife Private Wealth

Yes. I'd like to thank our guests today, Hemal Balsara, Susannah Roth. This concludes our call for today. On behalf of Manulife Private Wealth I'd like to thank everyone for their time today and thank you.

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