

What to do with assets in Mexico?

Antonio Maldonado

am@maldonadomyers.com

MALDONADO MYERS LLP

Introduction

- Why?
- Topics to be covered
- What will not be covered

Laws in Mexico

- Mexico's Legal System
- Differences between US and Mexico
 - Common law vs. Civil law
- Real property ownership in Mexico
 - Mexican Constitution Restrictions
 - Ejido land
 - Restricted Zone

Overview of Estate Planning in Mexico

- Wills (*testamentos*)
- Intervivos gift with reservation of life estate (*usufructo*)
- Trusts (*fideicomisos*)

Mexican Trusts (*Fideicomisos*)

- Purpose
- Duration
- Parties
- Cost
- Setup Process
- Successor Beneficiaries

Probate Laws in Mexico

- Court probate vs. Notarial probate
 - Recognition of U.S. wills in Mexico
 - Intestacy Rules
 - Application of Community Property Laws
 - Forced child support and spousal support
- ** Non-probate transfers
- Successor trust beneficiaries in a trust
 - Payable/Transfer on Death at financial accounts
bank accts/ investment accts/ life insurance

Probate Jurisdiction in Mexico

- Ancillary jurisdiction not specifically allowed
- Jurisdiction primarily on domicile
- Jurisdiction if real property in state
- Phases:
 - Succession (recognition of heirs; will, appt. PR)
 - Inventory
 - Administration
 - Distribution

Beneficiary Issues

- Liquidity Concerns
- Sale of property prior to distribution
- Restriction on foreign ownership of real property
- Mexican Income Tax on Non-Residents

Other Consideration

- Cultural and language barriers
- Representation by Attorneys
- Powers of Attorney
- US Notary Public vs. Mexican Notario Publico
- Inadvertent revocation of wills/ Situs wills

Two Scenarios

- Hypothetical #1 part one (Estate Planning):

Bill and Linda, Cal. residents (US Citizens) who are about to purchase a condo in Los Cabos

Two Scenarios

- Hypothetical #1 part two (Post-Mortem Admin.):

Tom, a Cal. resident (US Citizen), whose parents passed away owning the condo in Los Cabos

Two Scenarios

- Hypothetical #2 (Estate Planning):

Claudia, a Cal. resident (dual citizen) who owns real estate in California and has a revocable trust with pour-over will. You just learned she also owns a family home in Mazatlan and shares to a Mexican corporation that operates business

Two Scenarios

- Hypothetical #2 part-2 (Post-Mortem Admin):

The Mazatlan property (probate in Mexico);
Shares in the Mexican corporation

Questions and Answers

Thank you

Antonio Maldonado
am@maldonadomyers.com