



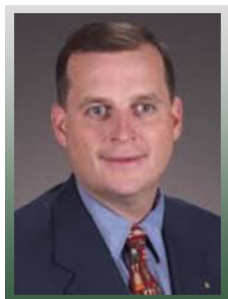
International Banking Laws and Beyond



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Peter Zipper

Since 2006 Mr. Zipper is President of Caye International Bank in Belize. He has over 30 years of International Banking experience. He graduated from the Geographic Institute in Vienna, Austria, with a degree in Geography and Cartography. Immediately after he attended the Austrian National Military Academy, as a result he served in active duty with the United Nations Peace Keeping Troops during the conflict in Cyprus. He retired from the military with honors as an officer – infantry.

After graduating from Staron Flight Academy in Vancouver, Canada, he worked actively during the 1970's as a commercial pilot throughout Northern Canada, Nigeria, and Costa Rica. He subsequently retired from aviation and later received his International Finance Education at the University of Alberta in Edmonton, Canada and he began his long career in Finance around the globe. During his career he lived and worked in the Americas, Europe and Asia where he held leading positions with multinational financial institutions. He is a sought after speaker and commentator covering international geopolitical and financial issues. Over the years he has lectured at thousands of events and radio and television shows in both English and German. Peter can be reached at pzipper@cayebank.bz or 011-501-226-2388.



Michael Cobb

CEO of ECI Development. In 1996, he and his business partner formed a company, Exotic Caye International, to provide loans to North Americans purchasing properties in Belize, Honduras, Costa Rica and throughout the region. As the need for capital outstripped the supply, the mortgage company was converted to an international bank under the jurisdiction of Belize. As Caye International Bank, it continues to provide mortgage services, but has expanded its services to encompass the full realm of financial products.

With a strong focus on consumer need, Mr. Cobb accurately predicted the growing need for high quality, residential product for North American Baby Boomer retirees in the region. He led the group into real estate development and created a holding company called ECI Development for several properties including a resort on Ambergris Caye, Belize. The model pursued is based on the Del Webb Sun City active senior communities in the U.S. with a focus on serving these consumers in multiple countries and geographies in the region.

In August of 2000, ECI Development purchased 3.5 miles of Pacific Beachfront property due west of Managua, Nicaragua. This master planned community hosts world class infrastructure, a golf course, homes and condominium units. In February of 2006, the ECI Development group acquired 1100 acres and 3km of coastline in Costa Rica, setting the stage for expansion into this popular market. In 2008, they merged their Belize property with a much larger parcel including pool, tennis courts and fitness center and have begun to develop 200 condominiums units on Ambergris Caye, Belize. Most recently in 2012, ECI Development purchased a position in a new project in Panama adding over 700 acres and another mile of Pacific beach front to their holdings.

Additionally, Mike Cobb has spoken at hundreds of international conferences about real estate financing and development. He has acted as a consultant to The Oxford Club and gives counsel to various real estate projects throughout Central America. Since 2002, Mike, his wife Carol, and 2 daughters, Amanda and Emily make their home in Central America. Michael can be reached at mcobb@ecidevelopment.com or (786) 738-6038.

Evaluating An International Banking Center: Banking Laws and Beyond

by Peter Zipper

Interest in international banking is growing, as people around the world are looking outside their own national borders for investment, travel, and new life experiences.

The growth in international travel, coupled with the increasing use of the internet to make a living or help manage businesses from afar, have led to growing use of international banking and international trusts to facilitate more mobile lives.

Some people who never intend to live outside their home country also open international bank accounts and trusts, simply to relocate or diversify their financial affairs, rather than their lives.

International Banking Centers Serve Legitimate Purposes

By an international bank, I mean a bank outside the borders of his home country that is specifically designed to move a variety of currencies easily across national borders for legitimate investment and business purposes. Such banks tend to be located in jurisdictions that specifically choose to support international banking as an economic sector, and have created legal requirements and protections to do so.

Such international banking centers serve a variety of different purposes for various types of individuals and corporations. Not all of those purposes are legitimate, and there is no question that there has been and continues to be inappropriate use of international banking centers by drug traffickers, terrorist organizations and racketeers.

However with the introduction of anti-money laundering laws in most advanced international centers, the world's governments and international economic organizations such as the OECD have had some success in preventing abuses.

While money laundering remains a problem in some international financial centers, international banks serve many legitimate and legal customer needs. Among the main legal uses of international banking centers are:

- » Tax-efficient structuring of international trade;
- » Holding and investment companies;
- » International investment funds;
- » Protection of personal wealth using trusts;
- » International financial services;
- » Captive insurance companies;
- » Shipping registries.

What Should You Look for In an International Banking Center?

The individual investor who wants to put into place any of these financial structures may need to set up accounts in an international bank in one of the world's international banking centers. Since not all international banking centers offer the same protections and advantages, you need to choose not only the individual bank you want to trust with your money, but also the international banking center that provides the best international banking environment for your needs. The basic advantages to look for in an international banking center are:

1. **A low tax regime** -- Normally international banking centers charge no local tax, or minimal taxes on international accounts; and generally free from taxes on profits from selling assets, such as wealth tax. Belize, for example, is a no-tax jurisdiction.
2. **Privacy and confidentiality** -- Due to self-regulation, disclosure of the identity of beneficial parties of any account or financial structure is very much restricted.
3. **No exchange controls** -- Depositors can feel secure knowing that their money can be taken out, or that more can be put in, at any time.
4. **Minimal government intervention** -- The best jurisdictions offer suitable regulations that support greater confidentiality and less restriction, without government intervention.
5. **Political and financial stability** -- Money is safest and devaluation least likely in countries whose government, politics and economy are all stable.
6. **High expertise in the financial world** -- The great advantages offered by international banking centers attract high-level financial experts to work in their banks. Again, Belize is a good example, recognized as "...a leader in getting its practitioners qualified and is rated as first in Central America," according to Campbell's College in the U.K.
7. **Asset protection** -- Assets held under certain structures such as IBC's and Trusts are protected from lawsuits, judgments and divorce settlements.
8. **Structures to maximize foreign investment** -- International income under certain structures accumulates tax-free, leaving more to invest. In addition, international investments also accrue at a significantly faster rate than onshore investments, due to the elimination of capital gains tax.

Beyond Banking Laws: Host Countries Are Not All Equal

by Peter Zipper

While most international centers have established legal and regulatory conditions to provide the basic features listed above, not all are equally advantageous to North American investors in particular.

In choosing an international bank, you are also choosing a country in which to place your money. Features of the host country itself that you should consider include:

- 1. Reputation** -- There are many international financial centers, and the number has steadily increased in recent years. The fact that the center is well-respected and has not been classified as a tax haven or linked to illegal activity should provide prospective clients with some reassurance about that jurisdiction.
- 2. Geography and physical infrastructure** – An international financial center must provide good communications, easy access and a comfortable place to do business. Translating your business into a foreign language, or communicating your needs to someone whose native language is different from your own can result in misunderstandings, frustrations, delays and mistakes. Similarly, look for an international banking center with easy access through daily flights from your home country, and one providing comfortable accommodations. Even the time zone of the banking center affects the ease with which you can conduct your business, whether by phone, email or in person.
- 3. Human infrastructure** – Look for an international banking center with readily available expertise in banking, law, accountancy, insurance, translation and interpretation of other languages, trust administration, company administration and clerical tasks. Again, it is also useful if the local official and business language is easily understood by clients. Factors such as strong local economy with good living standards for employees, easy work permit regulations, and the absence of civil strife assure a skilled workforce with available back-up services.
- 4. Legal system** – Legal systems vary widely throughout the world. The U.K. and its former colonies, including the U.S., Canada, Belize and some other Caribbean countries, operate under a common law system. The legal systems of Latin American countries that were patterned after Spain or other Latin European nations function very differently. For North Americans, a common law system is much easier to understand and work within.
- 5. Minimal reporting** – For maximum protection and privacy, seek a country that does not require public disclosure of beneficial ownership of companies, or maintain a central registry of trusts, and where banks are required by law to provide clients and business confidentiality.

Due to a growing trend in international travel, as well as increasing ease of conducting international business through the internet, international banking and international trusts have become an attractive financial option. Before deciding on an international bank and banking

center in which to place your confidence, and your money, make sure you find one that is well regulated, with a reputation as a favorable alternative among the international business community.

International Banks in Belize

by Peter Zipper

Belize is a tiny Caribbean nation that has been quietly transforming itself into an international banking center, offering clients around the world a level of privacy and services once associated exclusively with major European banking centers.

The country itself has many advantages as a banking and business center for North Americans. Belize the only English speaking country in Central America and is located close to North America, with flights from major international airports that provide easy access to clients and advisers alike. The country boasts a warm, sunny, climate and beautiful tropical scenery, plus good accommodation for clients, advisers and resident expatriates. The Belize dollar is pegged to the U.S. dollar at a fixed rate of 2:1, and U.S. currency is accepted by local retailers. Belize remains on Central Standard time year-round, so its local time corresponds to major business centers such as Chicago, Houston, or Denver, depending on the time of year. Good Good telecommunications also facilitates international business with the country.

Belize has two types of banks: Commercial banks serving local customers, and a small but growing community of international banks. These international banks were authorized by the Banks and Financial Institutions Act, 1995, and the introduction of the Offshore Banking Act, 1996, and the Money Laundering (Prevention) Act, 1996.

By law, international banks cannot serve customers who are citizens of or legal residents of Belize. The 1995 legislation defines an international banking as “receiving, borrowing or taking up foreign money exclusively from non-residents at interest or otherwise on current account, savings account, term deposit or other similar account and which according and subject to arrangement is repayable on the check, draft, order, authority or similar instrument of the customer, and investing the foreign money so received by lending, giving credit or otherwise exclusively to non-residents; or carrying on exclusively with non-residents such other activities as are customarily related or ancillary to international banking.”

There are two categories of Belize international banks:

1. **Class A** – Unrestricted. The holder of a Class A international banking license needs to establish, maintain, and operate a business office in Belize. It is permitted to transact international

banking business through its business office in Belize without restrictions on that business. Authorized and paid-up capital of at least USD \$3 million must be maintained if the license is for a local company, or USD \$25 million in the case of a foreign bank. The annual license fee for a Class A international bank is US\$20,000.

- 2. Class B – Restricted.** The holder of a Class B international banking license also needs to establish, maintain, and operate a business office in Belize, but it is limited to transacting only such international banking business as is specified in its license. Class B international banks cannot solicit or accept deposits from the general public, and cannot provide any current deposits or checking accounts to depositors. Authorized and paid up capital of not less than USD \$1 million must be maintained if the license is for a local company, or USD \$15 million in the case of a foreign bank. The annual license fee for a Class B international bank is USD \$15,000.

Several international Class A banks are in operation in Belize. These banks are regulated by the Belize Central Bank, have physical offices in Belize and offer various services including demand, savings and time deposit accounts. Accounts maintained with these banks are not subject to local taxes or exchange control restrictions. International banks tout their privacy for their customers, although if the Belize courts find that funds in the banks are proceeds of crime, the banks are required to release the identity of the account owner. Funds are transferred into and out of Belize in foreign currencies without conversion to Belize dollars.

As the number of countries offering strict banking privacy diminishes, Belize is attracting more attention, and more international banking business, from around the world.

FACTA Calendar and Timelines

by Joel Nagel

- 1.** April 15, 2012 - individual reporting requirements of offshore assets begin subject to new IRS form 8938 on foreign financial assets held as of December 31, 2011. (Even though this is in the past, this is where I would start).
- 2.** January 1, 2013. Original implementation date for foreign banks to report to IRS on their US customers. This deadline has been extended.
- 3.** April 25, 2014. Deadline for foreign financial institutions (FFIs) to enter into agreement with IRS that they intend to comply with FATCA and begin reporting effective July 1, 2014.
- 4.** July 1, 2014. Initial reporting goes into effect on all NEW accounts with compliant FFIs. Withholding tax begins on all non-compliant FFIs through US Federal Reserve banks as well as other compliant FFIs.
- 5.** June 30, 2014. Due diligence and information disclosure must be in place on all compliant FFIs with regard to existing clients.
- 6.** December 31, 2014 specific reporting on “High Net Worth”(ie \$500,000 or more) existing clients by FFIs to IRS begins.

7. December 31, 2015, specific reporting on preexisting, non-high value clients begins.
8. January 1, 2017 foreign “pass thru” withholding begins on foreign transactions, going from one foreign bank to another, passing through US banks, and going to non-compliant banks.

Banking in Belize

Safe, Stable, and Solvent

by Peter Zipper

Belize is a leading Central American international jurisdiction, and many visitors are intrigued about international banking. The growth in international travel, coupled with the increasing use of the Internet to make a living or help manage businesses from afar, have led to growing use of international banking and international trusts. Others have made the same decisions to relocate or diversify their financial affairs and open international accounts.

In addition to commercial banks in Belize serving local customers, Belize has developed a small but growing community of offshore (or international banks as they like to be called) banks. These international banks were authorized by the Banks and Financial Institutions Act, 1995, and the introduction of the Offshore Banking Act, 1996, and the Money Laundering (Prevention) Act, 1996. By law they cannot serve customers who are citizens of or legal residents of Belize. The 1995 legislation defines an international bank as “receiving, borrowing or taking up foreign money exclusively from non-residents at interest or otherwise on current account, savings account, term deposit or other similar account and which according and subject to arrangement is repayable on the check, draft, order, authority or similar instrument of the customer, and investing the foreign money so received by lending, giving credit or otherwise exclusively to non-residents; or carrying on exclusively with non-residents such other activities as are customarily related or ancillary to international banking.”

“CAYE INTERNATIONAL BANK LIMITED (CIBL)” was granted an Unrestricted “A” Class International Banking License on September 29th, 2003 by the Central Bank of Belize. The regulatory authority is the Central Bank of Belize (CBB) who set the standards for liquidity and capital adequacy. CBB maintains that CIBL and other International Banks in Belize maintain a liquidity of 24%. This requirement ensures the safety of our Bank.

CIBL offers competitive products to our depositors that are 50 to 100% higher than in the United States and in the absence of an FDIC program, our liquidity requirement is 400% higher as well. (E.g. on a deposit of \$500K, we need to maintain 24% or \$120K in a liquid form and in effect can only on-lend/utilize \$380K).

CIBL is the only International Bank that is headquartered on the beautiful island of Ambergris Caye and our license permits us to carry on business with both individuals and corporations who are non-residents of Belize. We offer a full range of traditional and non-traditional banking services and accounts in United States Dollars (USD), Canadian Dollars (CAD), Great Britain Pounds (GBP), Swiss Francs (CHF), and Euro (EUR) Currencies.

A lot of people want to purchase a second home offshore or even move permanently offshore and find it difficult to get the mortgage loan they seek. That's where Caye International Bank comes in. We get you financing in USD, CAD, GBP, CHF, and EUR currencies for projects in Belize, Nicaragua, Panama and Costa Rica when your banks can't or won't. Our loans are offered at competitive attractive rates for this region and an easy repayment schedule.

Why bank with Caye International Bank, Ltd. (CIBL)?

Privacy – At CIBL, your banking information belongs to you due to Bank Secrecy Law

Protection – The legal system in Belize is pro defendant, pro beneficiary.

Safe – Reserve requirements (24% liquidity) in Belize are three times the reserve requirements in the United States.

Profitable – CIBL offers competitive interest rates to our depositors that are 50 to 100 % higher than in the United States.

Security – Caribbean and Central America demographics support a strong demand for our services.

Access – CIBL opens a world of investments closed to U. S. and small investors.

Professional – CIBL's Executive Management Team has over 50 years of U.S., Belize and International Banking experience.

Technology – CIBL's Banking System enable technologies that surpass other financial institutions in both Belize and the U.S.

Warm – Both the climate and the people.

CIBL offers traditional investment products which include:

- » CD's from 1 to 5 years.
- » Savings Accounts with interest
- » Demand Deposit Accounts with interest.
- » Debit cards by VISA for international use..
- » Purchase of investments are also offered through relationships with Brokerage firms in Panama, you can purchase of investments on worldwide markets: US, Canada, Asia, UK, etc. such as stocks, bonds, mutual funds, structured products, futures, and options.

And through strategic alliances with other offshore providers we are able to offer:

- » International Trusts & Trustee Services
- » Corporate formations and IBC's
- » Captive Insurance Companies & Annuity Products, and Ship Registrations to name a few.

Due to a growing trend in international travel, as well as increasing ease of conducting international business through the internet, international banking and international trusts have become an attractive financial option. Belize can rightly take pride in the steps it has taken to ensure that the expansion of its international services sector is well regulated and that it remains a favorable alternative among the international business community.

Have Exchange and Capital Controls Come to the United States?

by Joel M. Nagel, Esquire

Long the champion and beneficiary of free trade and the free flow of capital, the United States last year enacted legislation that a growing number of commentators and professionals believe could be the start of capital controls in America.

The provisions are found in a jobs' bill – H.R. 2847 (also known as the HIRE Act), which became law in March 2010. Title V of the law largely encompasses the Foreign Account Tax Compliance Act of 2009, or “FATCA”, also referred to as the “Offset Provisions” of the bill. On their face, these provisions appear intended to force US tax compliance with regard to foreign accounts and transactions between the US and individuals in countries that are considered to be tax havens (meaning the banks and financial institutions in those countries do not share account information with US authorities). Section 1474 refers to “withholdable payments” to Foreign Financial Institutions that don't meet United States standards for information sharing. The law requires that any financial institution (US or foreign) remitting any foreign payment to a bank in such a country withhold 30 percent of the amount of such payment and remit that percentage to the Internal Revenue Service (IRS) as a tax.

A withholdable payment is defined as any payment of interest, dividends, rents, salaries, wages, premiums, annuities, compensation, enumerations, emoluments, and other fixed or determinable annual or periodical gains, profits and income, if such payment is from sources within the United States.

On its surface, the withholdable payment is designed to ensure that “pre-tax” monies are not sent abroad without applicable US federal taxes being paid. Looking a little deeper however, the law does two things that go beyond the responsibility of each tax payer to pay what they owe to the IRS.

First, under Section 1474 of the bill, the law makes banks, as a third party, responsible for the enforcement of government tax policy. The banks are liable for the customer's tax obligation on transferred funds, if they don't withhold the required 30 percent to cover any possible tax liability. The banks essentially become the tax police, working for the government as hammers to bring about individual compliance.

Secondly, the same provision holds the banks harmless and indemnifies them if they improperly withhold the 30 percent tax and it is not due.

So, if banks are third-party tax enforcers on the one hand, and completely indemnified from improper tax withholding on the other, then it is clear what banks will do. It would be difficult in any case for banks to determine the difference between a pre-tax remittance versus a post-tax payment. They will be inclined to simply withhold 30 percent tax on all foreign payments to banks and countries that do not have what are considered "information sharing" agreements with the United States.

The net effect of this provision will be to greatly discourage any financial transactions between US banks and foreign banks not entering into information sharing agreements with the United States government. To wire transfer \$100,000 to Panama, for example, to purchase a piece of real estate, one would have to agree to send \$142,000 so that a net \$100,000 would reach its destination. Who would be inclined or willing to pay 30 percent more in a global transaction in order to satisfy these requirements? Almost nobody.

International payments beginning January 1, 2013 will be subject to these new withholding requirements. The delay of over two years is designed to force foreign governments (especially those in tax havens) to enter into agreements with the United States, as Panama is in the process of doing now.

Secondly, the law will put extreme pressure on individual foreign banks to enter into private-sector agreements with the IRS to disclose all United States account holders, or risk having all US transactions moving to their individual bank being subject to 30 percent tax withholding.

In addition to those intended effects, I believe the new law will have two unintended consequences as well. First, both US and non-US persons fearing how the implementation of the new law will impact them after January 1, 2013, may be inclined to move assets outside the United States before the effective date, meaning we could see significant capital flight from the US in the next 23 months.

Foreign financial institutions may drop US clients as one way to avoid being subject to the 30 percent withholding requirement, as well as avoiding the US regulatory compliance costs (again, probably an intended consequence of the law). These compliance costs to worldwide bankers have been estimated by the Swiss Banking Association to total nearly \$40 billion dollars annually, while the measure is projected to generate only around \$8 billion to the US Treasury in increased taxes.

Additionally, foreign financial institutions and many foreign, private sector interests may simply stop conducting their business in dollars. A dollar-denominated transaction will ultimately pass through a US Federal Reserve Bank and potentially subject the transaction to the risk of a US bank levying a 30 percent withholding tax on any payment.

One method for foreigners to ensure that this would not happen would be to designate the contract in a currency other than US dollars. So if a German businessman for example contracts with his Japanese counterpart to do a deal to sell equipment in China, the best way to ensure that the transaction would not be subject to US withholding tax would be to designate the contract in Euros, Yen, Won or any other currency than dollars. Those currencies would not pass through a US Federal Reserve Bank and therefore not become subject to the backup tax regime. Russia and China announced at the end of last year that they would no longer be doing trade transactions in US dollars but rather in their own currencies. The two countries indicated that there was too much risk in utilizing the dollar for their trade.

As more global transactions (especially oil, gold and other commodities) are done in non-dollar currencies, the global demand for the US dollar will decrease and it will no longer be the world's reserve currency. As demand decreases, the value of the dollar will surely fall as well. So while exchange and private capital controls may well have been envisioned in the HIRE Act, additional unintended consequences of immediate capital flight and long term devaluing of our currency through simple supply-and-demand manipulations were probably less well-considered.

It is unlikely that a new Congress in January 2011 or even a new President in January 2013 will undo the effects of this damaging legislation. For individuals, there exists just under two years to plan for the new law and take steps to avoid the consequences, both intended and unintended.

Protecting Assets Abroad while Complying with the Law at Home.

by Joel Nagel

One of the most important reasons that people decide to protect assets abroad is to find strong jurisdictions that resist or eliminate many of the traditional threats against wealth. Yet compliance with US laws and regulations has never been more important than today. That begs the question: is it possible to do both? The simple answer is “yes”.

Regulatory compliance for foreign based structures and assets held abroad has increased over the past years. Just some of the forms that need to be filed include:

- A.** The Report for holding a foreign bank account with more than \$10,000 commonly referred to as the FBAR. This is an annual form required to be filed with the US Treasury.
- B.** Annual Return For US ownership of a foreign corporation (sometimes called a “Controlled Foreign Corporation” or CFC) filed on Form 5471.

- C. Form for establishing a Foreign Trust Form 3520. As well as the “Annual Return for the Trust” on Form 3520A.
- D. Excise Return for buying foreign life insurance and foreign annuities. Form 702.
- E. Catch All form for ownership of foreign financial assets over \$50,000. Form 8938.

Many of these forms have domestic counterparts, especially in the case of corporations or trusts, while others, particularly the new 8938 form, have a level of disclosure equivalent to an actual balance sheet not required for domestically held assets.

For someone considering international asset protection planning, estate planning, doing business or even just living and spending time abroad, the question becomes “are you willing and able to handle the level of necessary disclosure in operating outside the US”. One of my legal colleagues simply asks his clients “Are you ready for this cheese”?

The cheese he is talking about isn’t American, cheddar or provolone. It is multiple layers with exotic characteristics, maybe a really complex French cheese. Some folks think it is the best stuff in the world, great for gourmet cooking, a wholly unique element that cannot be duplicated. Others think it just smells funny and they’d never ever eat it. So again, think about it honestly, educate yourself about what you’d like to do and then ask yourself “am I ready for this cheese”?

If you are, expect on-going annual compliance work and/or fees to accounting professionals. Again you’ll need to have much of the same type of work done for domestic structures, but you’ll need to involve professionals at both home and abroad conversant with the necessary regulatory forms and US tax laws.

If you are not ready for this cheese, look for the best forms of substitute domestic entities and investment elements that will give you the best protection possible without going abroad. The balance of this article is designed to give a quick overview of foreign structures and asset protection strategies and explain the nuances that make them superior to their domestic counterparts. Since my law firm focuses exclusively on international jurisdiction shopping to achieve global asset protection for our clients, I clearly believe it is superior to domestic planning. At the same time I recognize that not everyone is “ready for this cheese”, so to the extent I can integrate concepts to make domestic structures better, I’ll try and include those as well.

Trusts:

Trusts are integrated frequently in international asset protection and estate planning for a variety of reasons. The main reason is that once you have transferred an asset to a trust, it is simply no longer yours. If it is no longer yours, then future creditors, plaintiffs, even government agencies can no longer take it from you.

An extra benefit to a foreign trust is that the trust actually creates a foreign “juridical” person. That foreign person is not a US person. That means that foreign banks, for example, which are closing bank accounts of their US clients will frequently spare the accounts of foreign trusts, even where there is a US person involved as a guarantor or beneficiary.

Other types of global investment including offshore hedge funds, insurance products, private

placements, and even real estate acquisition can be made possible through the creation of a foreign trust. US regulatory agencies such as the SEC that keep foreign investment closed to US persons, simply have no legal authority to regulate foreign trusts. For people interested in establishing global bank and brokerage accounts and in making real foreign investment, the foreign trust can open a world of opportunity quickly being closed to US persons.

The second benefit of a foreign trust has to do with the actual legal protection and the timing when it goes into effect that extends to both the grantor and the beneficiary. While this concept is governed largely by the 50 state laws in the US, certain characteristics of US law, such as the British Common Law prohibition on what are referred to as “fraudulent conveyances” is not permitted.

While nobody would agree that someone should be able to evade creditors by running out and forming a trust in which he or she places his or her assets, the opposite is also true in that nobody can get inside someone’s brain to try and figure out what he or she was thinking when they created a trust. The various US states have solved this dilemma by introducing “waiting” period after a trust is created before the benefits of the trust can be extended to the assets inside the trust. This time period ranges from one year to three years. California, for example, has a waiting period of three years.

So let’s imagine an obstetrician in California who helps deliver “premature” babies. Any baby that is anything less than perfect automatically means that he or she (or I should say their insurance carrier) will face a lawsuit. Under the traditional standards of fraudulent conveyances, it would be virtually impossible for that physician to ever try to protect any of his or her assets from lawsuits, real or nuisance.

Jurisdictions outside the US, however have interpreted or legislatively handled the English Common law concept of fraudulent conveyances differently. Belize for example, has made a legislative “bright line” test for fraudulent conveyances which simply asks the question “what came first, the lawsuit or the creation of the trust?” If the lawsuit came first, then the trust can be legally attacked. But, if the trust creation came first, then the claim against the trust is barred under Belizean law.

Many people may not need this level of asset protection, but then again the obstetrician is not alone in having lawsuits as a normal occupational hazard. For those with above average occupation hazard risks, the foreign protection offered by this type of statutory bar against lawsuits may be the difference between keeping or losing one’s wealth.

The last main area of difference between US and foreign trusts have to do with their length. Again, English common law tradition mandates how long assets can be held in trust. Essentially, they have to be for what is called a “life in being”, meaning by the time the grantor dies, the generation identified as the trusts’ last beneficiaries (normally grand children or great grandchildren) must be in existence. If you leave assets beyond that point in time, you are said to have violated the “rule against perpetuity”. The concept is actually pretty technical and complex and many a young lawyer has failed the bar exam for not being able to properly navigate through the rule against perpetuity.

But rather than parse into complex nuances, some jurisdictions have simply eliminated this Common Law rule with time limits or in some cases no time limits as to how long an asset can

be held in trust. After all, you earned your money, so why should any government tell you what you can or can't do with it (provided the activity is legal). If you want to hold assets in perpetuity for the next thousand years to allow your heirs to have a college education or to start a small business or to buy a home, why shouldn't you not be able to do that?

Many offshore jurisdictions agree with that logic and eliminated any limitations on trusts. To be fair, there are also some states in the US including Alaska and Nevada that allow for very long periods of trust for up to 350 years and certainly more States will follow as business is lost to foreign jurisdictions and or these States.

So in the case of Trusts, if you are looking to create a foreign platform for investment; if you are in need of above average asset protection with a short or no waiting period before the protection comes about; or if you are looking for a very long holding period to hold assets beyond the normal limitations offered by your home State, then you should consider offshore jurisdictions for your planning needs. If you don't need or want these levels of complexity and prefer something that your local community bank can administer, then you don't want an international trust.

Corporations:

Companies can be created anywhere and can generally do business anywhere, so why would someone want to create a company outside the US?

Well, lots of reasons. In some countries only a domestic company can own property or engage in certain types of business. In other countries you may get residency or nationality preferences by establishing a local company.

From the US' perspective, the IRS defers taxation in certain limited circumstances. If you meet the proper criteria, you only pay tax when money is repatriated in the form of salaries or dividends. So what is the proper criteria?

Imagine a quadrant graph where the vertical axis is divided between foreign and domestic income and the horizontal axis is divided between active and passive income. If your company generates ANY US income foreign or domestic, you do not get any tax benefit. If you generate foreign income, but that income is passive, you do not get any US tax benefit. But, if you generate active foreign income, that is the circumstance in which US income can be legally deferred. Even where a form 5471 must be submitted because the company is a Controlled Foreign Corporation or CFC, no tax may be due.

Again, if you do not generate foreign income or the foreign income you generate is passive, THEN you do not need a foreign company. But if you have the opportunity to generate foreign source active income, then a foreign company is the right "cheese" for you.

Foreign Insurance and Annuities:

Foreign insurance products (including annuities) appeal to people for a variety of reasons. First, the death benefit or payout currency could be something other than dollars. So if you are looking for a hedge against the dollar, foreign insurance products may be just the right type of insurance for you. Additionally, insurance in the US is regulated by both the Federal

Government (with regard to tax matters) as well as the various States (with regard to the investments allowable within an insurance wrapper).

If you buy foreign insurance, it must still be compatible with the Federal rules with regard to the ratio between premium and death benefit as well as the minimum diversification within the policy. But if you observe those rules correctly, then you achieve US tax deferral on the buildup of the growth.

Because it is offshore, there are no State rules to observe as to the type or quality of the underlying investments. So whereas the State of New York may limit insurance policy investment to 20 or so mutual funds, a policy issued offshore may permit virtually any type of public or private investment for the funds within the policy.

Popular annuities include Swiss Franc Annuities, foreign currency baskets and variable annuities with virtually any type of global investments inside them. Such annuity and insurance products can offer asset protection as well as currency and investment diversification away from the dollar and standard US investment.

For folks who want direct exposure to global investment on a diversified non dollar denominated and tax deferred basis, foreign insurance and investment products meet the need.

In conclusion, global asset protection and estate planning is right for the “right” type of person. I’m not saying it is something for only the most affluent, but rather for those wanting the specific benefits and willing to commit the time and energy to be compliant and make the commitment worthwhile. Is this “chees”right for you? Weigh the benefits and rewards versus the cost and energy of compliance. If you have a clear reason to utilize international planning, then embrace it and the cheese will be great. If you don’t have any reason to utilize offshore structures, stick with the American or Cheddar cheese and you’ll be happy you left the gourmet cheese to others.

Why International Planning?

by Joel Nagel

Frequently at seminars and in consultations with clients, people will ask me why they should consider international asset protection and estate planning. Won’t it cost a lot? Won’t I become the subject of IRS scrutiny? Can’t I accomplish all the same things with domestic planning? This is some of the common refrain.

To me, international planning is all about addressing jurisdictional systemic risk. What do I mean by that? Well, most people would agree that we live in a country where litigation has become the national pastime. If someone is not happy with someone else, whether a customer, business partner, patient or spouse, they turn to litigation as the answer.

That is just one systemic problem in the US. Offshore planning addresses this risk. Selecting other jurisdictions that are pro “defense” rather than pro “plaintiff”; where it might be difficult or impossible for someone to bring litigation against you, is a major solution to this systemic issue. Domestic planning does not address this type of risk because even the best domestic structures still need to function within the US legal and regulatory environment while foreign structures do not.

It is also becoming more difficult for American Citizens to directly open foreign bank / brokerage accounts. That is another problem based on our nationality. It is too much hassle and costly for the overseas financial institutions to comply with various US Government mandates including the recently enacted FATCA (Foreign Account Tax Compliance Act). Many of the financial institutions that won't open accounts directly for US Citizens will, however still open accounts for foreign structures such as trusts and foundations even when the ultimate beneficial owners are American. Again, this is a challenge for us as Americans that domestic planning and structures will not address. “Jurisdiction shopping” in overseas venues integrated with asset protection and estate planning techniques can open back up these closed doors to Americans.

Once foreign structures are created with foreign bank / brokerage accounts, the investment world also opens up wide. Over 70% of the world's equities are “closed” to US persons because the investments are not SEC regulated. Everything foreign from publicly traded stocks and bonds to private placements, investment funds and hedge funds are closed to US persons and US structures. If one creates an asset protection trust in a favorable offshore jurisdiction such as Belize or the Cook Islands, your structure can invest in practically anything you want. Again, the doors are wide open.

Finally, most jurisdictions limit in many ways what you can do with your money and to whom you can leave it at your death. Offshore estate planning utilizes jurisdictions where you can control your money after death for as long as you want. This can be for many generations or into perpetuity (i.e. forever).

International asset protection and estate planning simply cannot be compared to domestic planning. This is not to say that one should only do foreign planning. Some assets such as domestic real estate are better handled with domestic structures. But, for people with significant or even modest wealth, international planning compliments domestic planning and is usually the better solution of the two. It protects wealth in ways domestic planning cannot. It opens up access to investment and the global financial system in ways domestic planning cannot. It allows for flexibility in estate planning that goes beyond the ability of most domestic planning vehicles.

As for IRS audits, I have never seen any fact to suggest that folks with international structures are more likely to be audited than those with domestic planning structures. Most experts believe that your risks go up dramatically only when you try to hide assets offshore from the Government. I concur with this reasoning and believe that if all the proper filings are done, your exposure to an IRS audit is minimal. The IRS really doesn't care in the end whether you have offshore structures as long as you are reporting properly and paying the correct amount of tax due. In that sense, foreign and domestic planning is exactly the same.

The cost can be somewhat higher with international planning when compared to domestic planning. Generally, you need professionals in at least two and sometimes three or more jurisdictions contributing to the end work product. So, yes, to do it right your initial upfront costs will be a bit more. On an on-going basis, however, the cost of foreign trustees and registered agents is comparable to what domestic service providers charge. So the question is does the access to world markets, investment opportunity, superior asset protection and more flexible estate planning justify the added costs to create the legal structures? I think the answer is clear.

For most people it comes down to what you believe about the future. If you believe that we will see real tort reform, less litigation, lower taxes, a stronger dollar and a more flexible less onerous business and personal regulatory environment, then US planning is sufficient.

If you believe the US is facing political, social and economic problems that our current system cannot or will not address, along with higher taxes and a weaker dollar, then taking steps now to plan around the various systemic and jurisdictional risks are exactly why people engage in international planning. In the end, the choice is yours and almost any type of planning is better than no planning, but for me international planning is superior in almost every way to domestic planning.

International Asset Protection: Best Methods & Asset Classes to Protect & Grow Your Global Wealth

by Joel M. Nagel, Esquire

So often a client walks through my door to discuss trusts, corporations, family limited partnerships and/or other structures designed to protect their wealth. Structures are very important, but structures alone cannot do the job in a one-size-fits-all approach to asset protection. While an international trust may be just what the doctor ordered for protecting a surgeon's life savings, the same structure will do very little to help a commercial real estate developer operating in litigious North America.

The structure is only part of the equation, while the investment class is the other part. You need to put both parts of the puzzle together in a coherent fashion to truly protect and grow your wealth.

International Trusts - As many of you know, this is the Cadillac of asset protection vehicles. You select the jurisdiction in which a future fight over your assets may occur. Going global allows you to pick jurisdictions that favor grantors, beneficiaries, debtors, defendants, etc., at the expense of all types of future plaintiffs. The international asset protection trust can help your future estate avoid estate taxes, avoid probate and allow your financial and moral influence to be felt from beyond the grave. Asset Protection Trusts work exceptionally well with assets that can be "picked up" and moved, including stocks, bonds, precious metals and titles to foreign real estate, and anything else that can be "titled" offshore.

The Qualified Intermediary (QI) rules applicable in many "haven" jurisdictions, however, make it impractical to hold and trade U.S. Securities from a foreign trust. Some financial institutions simply will not allow a trust in which they serve as administrator to buy or sell U.S. securities. Others will only allow you to trade U.S. Securities once you have filed a W-8 BEN Form with the IRS. The new FATCA (Foreign Account Tax Compliance Act) rules as brought about by the

HIRE Act will make certain financial transactions (in moving money offshore) even more difficult for American created structures that have US beneficiaries.

Foreign trusts, however, are not good vehicles for holding U.S. real estate, bulky silver, antique cars, expensive artwork and things that are difficult or impossible to "move" across international borders. If you move an asset into a foreign trust, you may also put some of your remaining domestic assets at greater risk, since judges will get very upset when they find that they cannot attach certain assets that you have moved outside of their jurisdiction. For this reason it is important to have a look at the domestic assets that will stay behind as well as the assets to be moved.

International Business Companies (IBCs) - Are great vehicles for holding business assets that you intend to put to productive use. It can include real assets such as machinery, foreign real estate or intellectual assets such as patents, trademarks and/or copyrights and, of course, any type of global business opportunity. The IBC is not taxed in the jurisdiction in which it is formed, and may or may not be subject to current taxation in your home country based on the type of income generated (active vs. passive), the nationality of the controlling shareholders, and a number of other factors.

The IBC is generally not a good vehicle to hold strictly "investments" also known as passive activity. The U.S. tax code has a section dealing with Passive Foreign Investment Companies (PFICs) which can make taxation of these entities worse than in a domestic vehicle or simply holding them in your own name.

Family Limited Partnerships (FLPs) - Can be used both domestically and internationally. FLPs are a great way for senior generations to gift various assets over time to the next generation while still maintaining control as the general partner. This strategy works great for domestic real estate, U.S. closely held businesses and assets that you generally want to have "kept in the family." FLP drawbacks include succession challenges to the general partner and the potential asset protection challenges of the general partner. Sometimes the general partner of an FLP can be an offshore IBC designed to protect the partnership from claims against the general partner, or the general partner interest can be placed in a trust.

Private Placement Life Insurance - This is really the only vehicle left in which an individual can legally defer taxation on passive income, avoid capital gains, and eliminate estate and income tax. VUL (Variable Universal Life) policies are great for assets that have the potential for large capital gains or income streams, since the income that flows into the foreign insurance company normally is tax free. The instruments inside the insurance wrapper must be diversified under the insurance section of the Internal Revenue Code to constitute legitimate insurance.

Hedge funds are particularly good investment classes for life insurance wrappers since they are by themselves private partnerships which are very tax inefficient. Instead of liquidating a third of your gains every year just to meet your tax obligations, the money is able to grow tax-deferred. Private Placement investments with strong upside are also good candidates for insurance wrappers while money-losing investments are best kept in your own name for tax deduction purposes.

Debt - Quite simply "debt" can be used as a very effective asset protection structure and strategy especially where U.S. real estate is involved. Many advisors strongly advise clients against debt, but that is largely because they do not understand the role of debt as an asset protection vehicle. Instead of putting

real property in a trust, which may not protect it at all, why not leverage the property instead and make sure the equity that you pull out of the property goes into an asset protection structure. Believe me, the property involved will become very "unattractive" to potential plaintiffs once they realize that they will have to get in line behind a bank holding a first mortgage position against the property. To the extent that your international investment returns from the cash you pull out of the real estate exceed your domestic interest expense, you are ahead both with your returns as well as your asset protection. A number of my clients borrow in dollars but invest in a basket of foreign currencies they believe will strengthen vis-à-vis the dollar, thereby paying back the debt in dollars that will be worth less than they are today.

IRAs or Individual Retirement Accounts generally refer to all types of tax deferred vehicles including SEPS, Keoghs, 401(k) and 403(b) plans. These domestic retirement "trusts" can legally own the member interests of foreign LLCs, which in turn can own bank, and brokerage accounts as well as virtually any type of business interest, real estate or investment. The LLC itself can be set up as a "disregarded entity" which minimizes tax and reporting requirements and allows income to pass through to the IRA (which itself is tax deferred). This is a tremendous vehicle for folks looking to defer significant income for their retirement years

Hard Assets - Foreign real estate, foreign art acquired and held abroad, precious metals and precious gem stones all have a few things in common. They are not reportable as a foreign trust, IBC, bank or brokerage account would be. It is therefore possible to maintain a low profile with these items no matter how the ownership is structured. The lack of "present" income in addition to the lack of reporting requirements are ideal for folks looking to grow their assets offshore in a private and discreet way. Real estate that produces agricultural products, such as coconuts, wood (teak, mahogany), alternative fuels (sugar, coconuts, corn), etc. may also be an excellent way to diversify out of traditional investment classes, as well as the dollar and into hard assets that produce non-dollar denominated income. Even if the income must be reported, it is a great way to protect and grow income that will increase in value as the dollar declines in value.

In conclusion, no matter what type of assets that you hold or the type of asset protection structure that you have, certain assets are better predisposed to fit together in certain structures rather than others. Knowing what you need or want from an asset protection strategy will influence your investment mix, and conversely, a strong desire for a particular asset mix will dictate the type of asset protection structure that will work best for you. Keeping the relationship between the two in mind will help you to maximize the effectiveness of both your structure and your overall investment return.

Belize Banking Score Card: How Do We Rate?

by Peter Zipper

Belize is a leading Central American international banking jurisdiction. In addition to commercial banks that serve local customers, Belize has developed a small but growing community of international banks, serving customers from around the world in a variety of currencies.

Legislation such as the International Business Companies Act of 1990, the Offshore Banking (Amendment) Act of 2002, the Money Laundering Prevention (Amendment) Act of 2002, and the Trust Act of 1992 have officially established Belize as one of the leading international banking jurisdictions worldwide, incorporating the most secure features of international instruments instituted in Hong Kong, Panama and Cayman.

As chief operating officer of Caye Bank in Belize, I have good reason to know all the factors that make Belize an advantageous international banking center, especially for clients from North America. This is my list:

- » Belize is a no-tax jurisdiction. This is only one of the main reasons we are so attractive.
- » Privacy and confidentiality. Disclosure of beneficial parties is severely restricted.
- » No exchange controls.
- » No government intervention in banking activities.
- » Financial stability. The Belize dollar is presently tied to the US dollar at a fixed rate of 2:1.
- » International financial expertise available to our clients.
- » Asset Protection. Assets held under IBC's and trusts are protected from lawsuits, judgments & divorce settlements.
- » Tax advantages that maximize investment income. Under certain structures, income is tax-free, and capital gains are not taxed when assets are sold.
- » Belize the only English speaking country in Central America.
- » Direct and non-direct flights connect Belize to international airports close to major cities in North America.
- » Our warm climate and good business and travel accommodations make traveling, living and working here a pleasure.
- » Belize time is conveniently similar to major North American cities. It corresponds to Central Standard Time during the winter months, and to Eastern Daylight Time during the summer months.

- » Belize enjoys good telecommunications facilities.
- » The local legal system is based on the English common law system.
- » No public disclosure of beneficial ownership of companies is required.
- » Belize has no central registry of trusts.
- » Banking law require that banks protect the confidentiality of clients.

Belize can rightly take pride in the steps it has taken to ensure that the expansion of its international services sector is well regulated, and that it remains a favorable alternative among the international business community.

20 of the Most Frequently Asked Questions About International Investment Through an IRA

by Joel M. Nagel

IRAs are a great way to grow a portion of your investment assets on a tax-deferred basis. Most Americans have their IRA assets locked up in U.S. stocks, bonds and mutual funds.

The tax code, however, which regulates IRAs and other defined retirement accounts, does not place many of the restrictions and limitations on such accounts, which classic Wall Street brokerage houses impose. In other words, most Americans do not get full access to a world of international investment and true global diversification, simply because it is not expedient or profitable for their brokerage house to offer such investments.

The following frequently asked questions (FAQs) are designed to educate and inform our clients about what they really can and can't do with their hard-earned retirement dollars.

- 1. Is it legal to invest outside of the United States with my IRA?**
Yes. The tax code does not prohibit investment outside of the U.S. with individual retirement account funds.
- 2. What can I purchase outside of the U.S.?**
Real estate, stocks, bonds, mutual funds, virtually anything you can buy inside of the U.S.

3. How do I do this practically?

There are several steps:

- » First, you need to find a U.S. domestic custodian that will allow you to make foreign investment. Many traditional custodians will not facilitate foreign transactions, because the money in your account is no longer trading on their platform. The custodians who do facilitate foreign transactions generally advertise that they permit “self-directed” investment. They charge you annual fees based on the custodian and compliance work that they do for you, not based on transaction revenue.
- » Next, depending on what you want to purchase, a structure would be created inside your IRA, generally an LLC or an IBC. The entity is deemed “disregarded” for tax purposes as long as various formalities (which we will discuss later) are observed.
- » Finally, the entity establishes a bank/brokerage/metals account with various international financial institutions that cater to this type of clientele. Funds are moved from the IRA to the LLC/IBC (which, remember, is owned by the IRA) and finally into the end investment. The corporate entity then reports back to the IRA custodian on the increase or decrease in the value of the investment, and the custodian is responsible for reporting on those values to the IRS on a regular basis, to keep the account in proper compliance.

4. What types of retirement accounts can be self-directed?

We speak generically in terms of IRA accounts, but specifically we are referring to:

- » SIMPLE IRA
- » Traditional IRA
- » SEP IRA
- » Roth IRA
- » Individual 401(k) (including Roth 401(k))
- » Coverdell Education Savings Account (ESA)
- » Health Saving Account (HAS)

5. Do I have to use a structure?

No, a structure is not necessary, although it gives the investor maximum flexibility and control, both as to the investment as well as to the distribution of the assets. The investor can either liquidate assets to fund a distribution, or simply distribute out shares in the corporate entity as the distribution.

6. So, how does it work if there is not a structure involved?

In that case, a foreign bank or brokerage account is opened directly in the name of the IRA. The U.S. custodian is the “owner” of record, and the foreign financial institution reports directly back to the U.S. custodian with regular statements. The custodian reports on the account value to both the end client as well as the IRS, making sure that compliance is maintained.

7. What are some of the advantages to using a structure, such as a company or limited partnership, for making investments inside an IRA?

Here are just six advantages that come to my mind. You might certainly come up with more if you try.

- » Speed. Some of the best deals are available because funding is needed immediately. If you have an entity set up and funded, it is ready for you to invest immediately.
- » Convenience. Explaining how self-directed IRAs work, especially in a foreign jurisdiction, is slow and cumbersome. Real estate closings, in particular, are easier to facilitate with an entity in place.
- » Privacy. An entity can provide a curtain around the real beneficial owner. From an asset protection standpoint, privacy of an investment lessens the chance of litigation and public exposure.
- » Control. You have complete and unfettered control of the assets. You have an obligation to act as a fiduciary back to the IRA, and make investments you believe are best for your account, but you and you alone make that decision.
- » Asset protection. In many cases, someone going after the assets inside an entity owned by an IRA will need to pursue his/her claims in the jurisdiction where the structure is located. Many jurisdictions such as Nevis, Belize or the Cook Islands are very asset-protection friendly, and hostile to frivolous lawsuits.
- » Lower costs. Oftentimes the costs of the structure are less than traditional and on-going asset manager fees charged by many banks and brokerage houses.

8. Are there any types of interest that cannot be held in an IRA?

There are two major types of assets that cannot be held in an IRA. The first type are items specifically excluded by name. These are investments in life insurance contracts and “collectibles.” That limitation applies to assets held both within the U.S. and outside of the US.

Secondly, a U.S. operating company (as opposed to a passive investment) cannot be held in an IRA without attracting what is called Unrelated Business Income Tax or UBIT. UBIT generally makes the notion of holding this type of investment (as a minority investor) in an IRA unattractive, unless there is a significant amount of depreciation involved in the assets to wipe out the UBIT. If the interest is not a minority interest, but rather controlling interest in an operating business, then the investment could be a prohibited transaction, rather than an exclusion of the investment (more on that below). So you could not, for example, have controlling ownership interest in a beach bar in a foreign country which you operate inside your IRA, and if your interest were a minority, passive interest you would end up with UBIT.

9. What are prohibited transactions, as opposed to impermissible investments?

The IRA rules are designed to benefit the plan itself, not a particular individual, even though the individual ultimately benefits. These rules are designed to make sure that investment is at “arm's-length” and not done in a “self-dealing” manner. Persons who would be “disqualified” persons to your IRA include both you and your spouse, children, parents, etc., as well as any corporation or partnership owned or controlled by any combination of those persons. So you could not, for example, use IRA funds to buy a piece of property in France and let your children live there, or buy property in Central America where you planned to live. These would be prohibited transactions. Other prohibited transactions include lending money to a disqualified person, or furnishing of goods or services to a disqualified person.

10. Can my IRA invest in foreign private placements?

Yes, generally you must meet the requirements of an “accredited investor” or “qualified purchaser.” Those rules are a bit technical to go into in this article, but essentially your net worth (including the value of your IRA) must be high enough to permit you to make private placement investments. Also, depending on the investment you are trying to make, you

may need to have the ownership inside a structure (LLC or IBC) as opposed to a direct investment by your IRA.

11. How do I take advantage of a relatively small amount of money in an IRA?

While many foreign investments require larger amounts of money to participate, there is no prohibition on your IRA from partnering with other IRAs or non-IRA investors in a particular investment. Also, some small IRAs may deal in part of a transaction, such as an option or purchase agreement, and then sell the underlying investment to another person or entity for a fee which has a material, positive impact on the small IRA.

12. Can I use debt in conjunction with an IRA investment?

Yes, you can. You may end up with what is called Unrelated Debt Finance Income (UDFI), which could subject a portion of your income to taxation, however in many circumstances it make sense to use debt in conjunction with IRA investments, particularly real estate.

13. What if I make a mistake and buy a restricted investment or make a prohibited transaction from my IRA?

In the case of a restricted investment, the amount in question is deemed to be a distribution in the year the investment is made. So if I buy a painting (which would be impermissible) in my IRA for \$40,000, I will be deemed to have received a \$40,000 distribution, subject to taxation.

If, on the other hand, I purchase a house for my own personal use (instead of investment property) for \$250,000 with my IRA funds, I would have entered into a “prohibited transaction.” That prohibited transaction creates a deemed distribution of the entire IRA account. So, if I had \$1,000,000 in my IRA, I would not only pay tax on the \$250,000 value of the house, but on the entire \$1,000,000. If the IRS does not catch the prohibited transaction for several years, penalties and interest for under-reporting of income in the year in which the transaction took place would be significant and could exceed 100% of the amount involved in the prohibited transaction. In this case, even the use of an LLC owned by the IRA will not shield the transaction from running afoul of the prohibited transaction rules.

14. How are the assets inside my self-directed IRA valued?

The U.S. government requires that each year by January 31, your third-party administrator or custodian to report the total value of your IRA account on IRS Form 5498. For most liquid investments such as stocks, bonds, cash, precious metals, etc. ascertaining the fair market value is easy to do. For real estate and other non-liquid investment, the IRA holder is required to get a bona fide third-party appraisal.

15. May I take compensation for managing assets inside a structure owned by my IRA?

No. That is a prohibited transaction, as you would be deemed a disqualified person.

16. Who does the “due diligence” on foreign investments that I wish to make from my IRA?

You do! A custodian or administrator is just that. They hold assets and do government compliance work. When investing internationally, it is important to do your own due diligence and work with trusted investment advisers, banks, brokerages houses, attorneys and CPAs.

17. May I personally guarantee a loan entered into by my IRA?

No. The IRS prohibits the direct or indirect extension of any type of credit between a plan and a disqualified person. Therefore an individual would not be permitted to guarantee a loan taken out by an IRA to buy property, or for a margin loan on a securities account. Also, you cannot pledge IRA assets as security for personal or corporate obligations.

18. What about gold and other precious metals, can I own them inside an IRA?

Yes, absolutely. There are some exceptions for numismatic coins which can fall into the “collectibles” exclusion. U.S. minted gold coins, bullion and certificates, such as the Perth Mint Certificates or publicly traded ETFs for gold (or other metals) may be owned by an IRA or a structure held within the IRA.

19. So, how do I get started in moving some of my IRA assets overseas?

There are several ways to begin. Our firm offers a first step, analytical tool we call our “Personal Asset Protection Plan.”™ We look at all of your current assets (both tax-sheltered assets and non-sheltered assets), your risk profile and your general estate plan goals. We will customize an individual road map with structures, and strategies to help you get where you want to go. Conversely, you can simply do a Google search for “self-directed IRAs” and you will quickly have a list of numerous custodians permitting this type of global investment.

20. How much would it cost to have your firm assist us?

For Hemispheres readers, we are offering our “Personal Asset Protection Plan™” for \$2,500, which is 50% off of our standard rate of \$5,000. Furthermore, if you engage our firm to carry out any of the suggestions in your PAPP, we will credit dollar-for-dollar the amount you paid for your PAPP towards the final work product, making the planning work free. Costs of implementing the PAPP work product ranges significantly, depending on whether you are doing something relatively simple such as setting up an LLC, or something more complex such as an international asset protection trust.

Real Estate Due Diligence: The 15 Critical “Must Ask” Questions when Buying Property Overseas

by Michael Cobb,

Chairman and CEO, ECI Development

Everyone buying property outside of North America needs to remember the famous words of Dorothy to Toto after being dropped into Oz, “I don’t think we are in Kansas anymore.” When going offshore, especially to places that feel familiar, we must be very, very careful. In fact, the more familiar it seems, the more caution we should apply. But how do we do that?

Take a look at a favorite saying of mine, “I don’t know what I don’t know.”

Please stop and reread that.....

Really! But how can we know what we don’t know? We can’t obviously, but we can be open to new possibilities and realities that vary greatly from our assumptions. The analogy that makes sense here is one of a radar screen. A small radar screen is easy to manage. In the world of “North American normal” we can get away with that. But overseas, a larger radar screen serves us well. It makes sense to expand it greatly so that anomalies are picked up way out, not close in. Give yourself time and space to examine this data, process it, and then understand it.

Humility is the one attribute that really helps us to be open to the fact that we don’t know what we don’t know. It gives us a willingness to listen, hear what doesn’t make sense, acknowledge it and try to fit it into our analysis. It also allows us to let others with more experience guide us in unknown territory. The choice is really humility or tuition.

The other piece of this puzzle is our assumptions mentioned above. Have you seen the word “assume” defined as making an ass out of you and me? Ass - u - me. When we come to Latin America we bring our assumptions with us. We have to because they are part and parcel of who we are.

Assumptions are like filters. In the back of the brain, right at the top of the spinal cord, resides a special part called the Thalamus. This is one of the oldest parts of the brain and it is the brain's chief filtering mechanism. It hears and senses everything. Literally everything. Billions of sensations per second, yet our conscious mind gets only about 1% of that information because that is all the conscious "I" can handle and process.

A good example is when you have a small baby in the house. It is possible to sleep through a raging thunderstorm, but a tiny squeak from a newborn will rouse the mother instantly (and dad sometimes). This is the Thalamus hard at work, sorting out the needed info from the not needed. This filtering mechanism lets us live our lives. If we had to pay attention to every noise, movement, sensation around us, we'd be overwhelmed. So we filter.

But this filtering mechanism can be an Achilles Heel unless we understand that we are indeed filtering and are prepared to try and turn it off as best we can. But it's not easy to turn the filters off, live "on your toes," and be ready to see something that doesn't make sense. In fact, it can be hard work. But it is necessary to if we want to make wise property ownership decisions overseas.

When you see it, turn off your confirmation bias, acknowledge it, and respect what your logic says. Push your radar screen out further. Give yourself time and space from the awesome emotional experience of palm trees, margaritas, and friendly sales guys. Process the hard data and do your homework. Look for evidence that contradicts what you want to believe.

The bottom line is that there are numerous wonderful properties out there and some of them are right for you. But you are in a different country, with different rules. There is no big brother looking out for you, hooray, so be sure you are smartly looking out for yourself.

An educated buyer is a happy owner. The answers to the questions below should be an important part of your property selection process. There are no "right" or "wrong" answers, but we've found that the things people take for granted or assume are standards in North America, may not be in Latin America. Be sure you know the answers to the following questions and make conscious decisions about what levels of creature comforts are mandatory and which may be optional.

The 15 Critical "Must Ask" Questions when Buying Real Estate Overseas needed for excellent and comprehensive due diligence are broken into three main areas:

1. Buy what you see
2. Own community
3. Know the developer.

The first set below deal with "Buy what you see." The President of ECI Development has a saying, "You get what you inspect, not what you expect." Promises are easy to make and difficult to deliver. Be sure you are dealing with existing reality. These first critical due diligence questions are below.

The other two areas, "Own Community", and "Know the Developer" will be presented in subsequent issues of To the Point. If you would like to receive the complete list of all 15 questions, e-mail me now and I'll send them over. mcobb@ecidevelopment.com But please be sure to also read the next two installments for commentary background when they are presented there.

Buy what you see

Is there year around access to the property? What is the drive time from shopping, dining, and the airport? Not all roads are accessible year around in the region. Streams that barely flow or don't at all, can be raging torrents half the year. Know the road condition in rainy season. Proximity to services is very important. The key factor is the time to reach the destination not the miles. 10 miles on a rough dirt road in rainy season can easily take an hour or more.

What road and public infrastructure exists? Does the current infrastructure include underground utilities, paved streets and sidewalks? Do not take for granted paved roads, street lights or state of the art telecommunications. If these are not in place when you buy your property, they might never be. Rarely, if ever does, the government or utility company provides these services to a developer. If the sales agent says, "it's coming," verify that the developer has the funds to meet his promises. Ask to see a copy of his most recent bank statement showing the millions of dollars it will take to build the infrastructure. Bottom line: Buy what you see! Be sure that the price you pay is indicative of existing reality.

Is there enough fresh water and water pressure? Sometimes it's the smallest of things that adds greatly to the quality of life. Water pressure is one of them and it must be planned for and paid for. Either the developer has planned and paid for this part of the infrastructure or the lot owner will bear this cost with the addition of storage tanks and pressurizing systems. If you are considering an existing home or condominium, turn on all the faucets, inside and out, the showers, and then flush the toilets. Is there sufficient pressure?

Is the house or condominium plumbed with hot water? Not a silly question. Look under the sinks to see if there is hot and cold service. In many cases, a splitter is used from the cold service to provide water to both faucets. The cost to retrofit a concrete home for hot water to the bathrooms can be high. If you are having a home built, be sure to triple check the plans for a hot and cold service to all bathrooms and fixtures. Architects and builders may design "local" and unless you catch this upfront, change orders become prohibitively expensive.

How far is it to major medical care? How long in dry season, how long in rainy season? Major medical care is critical. Most major Latin American cities have state-of-the-art hospitals. In fact, in many cases these facilities can eclipse regional US hospitals with newer more modern equipment approved for use by the Europeans but not yet passed by the FDA. Be sure to visit the medical facilities as part of your due diligence process. Remember too, it is not how many miles to a major medical facility, but how many minutes by car in both the wet and dry seasons that really counts.

Real Estate Due Diligence: The 15 Critical “Must Ask” Questions when Buying Property Overseas

Part 2. Own Community

Part two of the 15 Critical “Must Ask” Questions when Buying Real Estate Overseas will focus on “Owning Community.” While this seems like a no-brainer to most folks from North America, it really goes to the heart of what “big brother” does for us in North America and just how much we unconsciously depend on him. Sorry if I offended anyone there, but please be honest and tell me that if you bought a piece of property in Latin America that you’d ask what could prevent your neighbor from starting a pig farm. Really! Would you think to ask to see a copy of the local zoning laws? You would likely be surprised to find there are none, and that in fact, your neighbor can legally build anything they want next door as far as the government is concerned. This is real freedom isn’t it?

But freedom and responsibility are a double edged sword. You the buyer must take the responsibility to ask the right questions to learn what you need to know so you can make the right decision for you and your interests. But how do you know what questions to ask. How can we know what we don’t know? Obviously we can’t, but a strong dose of humility goes a long way, as does turning off our filters and confirmation bias. These issues were covered in part one of this series in the last issue of To the Point.

Owning community is important, not just in zoning, but also in who will be around, or more importantly, will anyone be around. A build requirement on the part of the developer is a key piece of the community puzzle. Without something to mandate home construction, most projects of Latin America are long to be ghost towns and a collection of sold, empty lots waiting for their investor buyers to come build a home. Most won’t. They bought the lot as an investment to flip in a few years. Maybe they can, maybe they can’t. But a community is something else entirely.

Community is a tough word to define, but the subjective experience is real and we know it when we sense it don’t we? In fact, this soft fuzzy feeling can be and is quantifiable by the free market. Developments that achieve this sense of friendliness and warmth sell at higher prices initially and retain much higher resale values over time. The velocity of sales, even in down periods, outpace projects close by that lack this so important sense of community. Case studies abound and several are contained in ECI’s Business Plan. If you’d like to see these, let me know and I’ll send you the data.

Other factors too contribute to community and the financial and personal benefits that accompany it. Walkability is a huge factor. So are 3rd spaces where people can meet casually

and get to know one another. Sure, there are a few Jeremiah Johnsons out there, but the vast majority of people want to have other people around to golf with, fish with, play tennis, swim, hike, play cards, share a drink or a meal and a multitude of other activities that we enjoy socially. But if there are no other homes around, no restaurant or fun places to congregate, no amenities in place to play a round with friends, how will this happen? Buy what you see is extremely relevant here too.

“Owning Community” is Part 2 of the series and these critical due diligence questions are below. For Part 1, “buy what you see,” and/or if you can’t wait for the 3rd installment, “Know the Developer” send me a note and I’ll send the complete set 15 Critical “Must Ask” Questions when Buying Real Estate Overseas.

What kind of construction and design standards are in place and enforceable? Is there building requirement of any kind? Zoning is almost inexistent in Latin America. Unless the developer has written and implemented CC&R’s, your neighbor can do whatever they want. Read the CC&R’s and make sure you agree with what is allowed and what is not. Know what deed restrictions are in place or you may be unpleasantly surprised by a neighbor whose tastes are radically different than yours. Empty lots on the beach are great for a picnic, but don’t create much of a living environment. Community means homes around you. If you want to have neighbors around, be sure that there is a requirement that property owners build a home in order to avoid living in a “ghost town”.

Are there amenities for use by owners and visitors? “Buy what you see” should be the basis for 90% of your due diligence evaluation. Is there a golf course, restaurant, bar, tennis court, fitness center, dock, dive shop, in place and serving clients. Or are they just promised. Promises can be alright, but your due diligence should include the verification of hard funds needed to complete the promised infrastructure, amenities, and services. Without the money, you are buying a dream.

Are there state-of-the-art telecommunications or fiber optics for fast and reliable worldwide communications? This question could fit in either “Buy what you see,” or “Own community.” But in a time where we take internet and phone service for granted, and community is being more and more defined on the web, this vital component must be in place, and in place well. Understand the reality of telecommunications infrastructure. How is the phone service provided? Can you get the bandwidth of internet you need? Is the service flexible and expandable to grow with the future needs?

What about the Home Owner’s Association? Are the fees high enough to cover maintenance of existing and planned infrastructure? Yes, high enough. You should worry about low fees because they are usually a sales tool to show how cheap the cost of ownership is. Let’s be honest, nobody likes to pay monthly fees. However, please realize that fees set too low equate to unexpected surprise assessments in the future and/or a drastic rise in HOA fees when the developer is gone and the true costs of maintenance are carried by property owners.

What about green belts, common areas, and the future of the development? True community requires 3rd spaces and places for people to meet and enjoy each other’s company. Club houses, parks, sidewalks, and maintained open space are critical to foster a spirit of enjoyment for residents. If public spaces are important to you, be sure they exist and are protected in the master plan. Remember too that there needs to sufficient resources for the care

and maintenance of these areas. Knowing and agreeing with the vision of a project is important too. Be sure that the developer's long term plans align with your goals and desires as a homeowner in that project. Ask to see a copy of the developer's business plan if they have one and make sure it makes sense over the long run for you.

Real Estate Due Diligence: The 15 Critical "Must Ask" Questions when Buying Property Overseas

Part 3 Know the Developer

Part three (the last 5 questions) of the 15 Critical "Must Ask" Questions when Buying Real Estate Overseas deals with "Knowing the Developer" and using the marriage analogy here is appropriate. Not many of us meet a girl in a bar and get married the next day, but it does happen I am told, especially in Vegas. When it does, it might fall under the category of "Margarita Madness," a malady that sadly also affects many travelers to Latin America as well as those struck by marriage at first site.

So when you decide that you want to own a piece of property outside North America, you should consider it like a marriage. Generally we get to know several ladies in our lives, find one that is a very good fit, court her for weeks, months, or even years, and then after we know her pretty well, ask her if she'll marry us. If she says yes, we tie the knot.

Tie the knot is a great way to look at owning foreign real estate. In the previous article we discussed Big Brother and here is the good news / bad news about big brother again. Good news, he isn't generally around much south-of-the-border. Bad news, you are responsible for what happens, buyer beware. Just as there are few or no zoning laws as discussed in part 2 of this series, there are also no bonding agencies, or fair reporting commissions to protect you from outright lies at one end of the spectrum, or just good intentions gone awry at the other.

The questions in the "Know the Developer" section below is all about who the developer is, why they exist, how they plan to get from point A to point B, and do your philosophies and values align with theirs. A very simple way to know a lot about the developer is to ask them for a business plan. Do they have one? Really! Developing real estate is a business after all and a "wing and prayer" is hardly the best way to come at it. Ask to see the business plan. Read it and make sure it is comprehensive and makes logical sense to you.

Also, who are the people on their team? What experience do they have? Is there a proven track record or is this their first experiment with you as a guinea pig? What is their commitment? When the going gets tough, and it will I assure you, what is keeping them there to grind it out through the middle of the marathon? Yes marathon. Everything takes longer and is far more difficult in Latin America. Why will they stay? Look for answers in this case that make sense in your heart.

Again, owning a piece of property is like a marriage. If it's a good one you'll be happy. If not, you'll be stuck with the developer for the next decade or two. You might want to know who they are a little better than what you can learn over a few drinks under some palm trees in paradise and a mild state of euphoria.

A great sales psychologist states that, "We buy emotionally and justify logically." Margarita Madness, which is the topic of my next article, sets the euphoric mood to "buy emotionally." These 15 critical questions, the last 5 of which are below, show us how to "justify logically." Both parts of our brain, the emotional and the logical, are critical for happiness and satisfaction with property ownership. It's a marriage after all. Get it right the first time. Divorce is expensive I hear.

How will you build your home from thousands of miles away? Who can oversee the construction of the home, and what is included? Look for projects that show homes as examples of what you will actually receive. What are the written specifications? What do the Architectural CC&R's dictate? Are you in agreement with them? Have they planned property for 220v water heaters and air-conditioners, are there hot water lines to all the sinks and showers? Are lights, fans, faucets and fixtures included in the price? Are appliances and AC units included? Is there a dryer vent or a water line to the fridge? How about the telephone and cable TV wires? Are they included in the price? Really! What are the engineering guidelines? Who is going to validate these specifications as the home is constructed? All of these things and more we assume as North Americans. Verify and assume nothing. Remember, you get what you inspect, not what you expect.

Is the Development Company financially solid and do they have a record of success? Is financing available for Property Ownership? Remember buying a property in a foreign country is like getting married. You should know very well who you are marrying. Hopefully the developer will be around for many years and, if so, you want to be sure you are comfortable with the long term association. Ask to see a copy of a business plan. Do they have a business plan? Ask to see financials. You are the buyer and you have every right to ask to see financials, especially if they've promised something like future amenities. You need to know who they are and if they will be around for a long time. Remember, you are going to send them your hard earned money. There are no bonding agencies holding their feet to fire to complete anything they promise. You are counting on the people and company involved to make good now and for the next 20 years.

If they've promised an ROI on rental return, ask to see cancelled checks to owners. Really! If they've returned 8%, 10% or 12% to owners, they'll be proud to show you the cancelled checks. In addition because financing is rare in the region, the developer should provide a form of financing as a buyer's option. This shows financial stability. It also will indicate that they are not using your money to build promised infrastructure and amenities. Build outs based on sales flow can stall in down markets leaving buyers with half built projects to complete and fund as a HOA.

Is there a central sewer system? This may seem like an odd question to put under the heading of "Know the Developer," but here's the logic. When a developer doesn't plan a central sewer system, what they are in fact doing is pushing the cost of the waste disposal off to the property buyer. Depending on soil type, this may or may not be a big issue. But either way, property owners will be responsible for paying for and installing septic systems. If septic is

the provided solution, request to see a copy of a “perk test.” Many soils of Latin America are heavy clay. Lot owners may be forced to install expensive systems to meet environmental codes. Worse, without proper zoning and environmental inspections from big brother, many property buyers may not install what is hygienically required leading to a nasty situation, especially in rainy season.

What about safety and security access? 24/7 security should be provided at any public entrance with cooperating backup from local and national police. Generally the municipalities will not have the funding or staff to provide the kind of security North Americans are used to. Prevention and deterrence is the key here, and a strong visible presence prevents the kind of petty theft so often happening in the region. Be sure it exists and works. Were you let through the gate no problem? Hmmmm. Who else can get through? A tough time getting in through the gate yourself, means others will face it as well.

What kind of title guarantee can be provided? If you can’t get title insurance, you should seriously reconsider the purchase. There are no legitimate reasons you should not be able to get this protection from a major company like First American or Stewart. This is a black and white issue. Either the seller has title and you can get a policy, or you should walk away. There will always be a story. Believe it at your own peril.

Demographics and Scarcity Converge: The Boomers Move South and Your Opportunity to Grow Wealthy Serving Them....

by Michael Cobb,

Chairman and CEO, ECI Development

If you had a time machine and could see the future, would you be able to make better decisions? Would you be a better investor? They seems like silly questions, but we would make better decisions if we knew the future, wouldn't we? If we could see what was going to happen, we

would develop products and services that everyone wants and needs, and then of course, we'd do very well for ourselves.

While we can't go forward in time for a sneak peek, we can spot emerging trends. When the macro-demographics line up behind that trend, get ready. There is going to be a lot of money to be made by somebody. Why not you?

I was among those fortunate enough to be a part of the early computer wave of the late 1980's and early 90's. Now the truth be told, it wasn't foresight that put me there...just plain luck. But there I was, and it was a great time to be in the computer business.

The major reason the tech sector performed so well when it did was the combination of two factors. The Baby Boomers moved into management positions in industry at the same time that the personal computer became a product mature enough to be of significant useful value for individuals and corporations. It was a powerful convergence of two factors that led to the great adoption of PC's and their massive widespread use. It also helped that the Baby Boomers generally rebelled against centralized authority. Remember the Apple commercial railing against Big Brother?

The success of the PC and the fortunes made is a great example of the **convergence of demographics and scarcity**. More people wanted PC's more than were available for a significant period of years. It produced huge opportunities for investors and entrepreneurs. Profits from computer and software sales were enormous because initially scarcity reigned. Consumers demanded a product and production facilities were not in place to produce the quantities demanded.

Over a period of about 10-12 years, the scarcity element waned because thousands of factories were built to supply the components needed to assemble the millions of PCs required each year. Prices and profits fell. The number of players in the market also constricted substantially leaving only the companies that produced a high quality product.

Interestingly, the names of these companies are largely the same as the ones who entered the market first, IBM, Dell, HP, Toshiba, Apple, and Microsoft. Those that arrive first, and perform well, stake a strong claim in the most fertile territory, and reward customers and shareholders alike for the long term.

A huge convergence of demographics and scarcity is happening again. This time it is in preparation to serve Baby Boomers as they retire and age. There are numerous sectors like health care poised to do well, but much of that future success has already been priced into the market. In order to really profit from this convergence, one must look under different rocks as my friend Steve Sjuggerud says. Find opportunities others are overlooking. That is where the real pay dirt is.

One such opportunity is under our noses right now. We all know that the real estate sector has been hammered over the past 5 years and rightly so. In many parts of the world, price gains were fueled by a speculative bubble. The true consumer demand wasn't there to feed the ultimate usefulness of the product and prices tumbled in response. It was a bloodbath for many, but the strong survived. The companies in business right now are those that stayed true to the consumer and produced a product that people wanted to own and use.

Products People Want – Sun City South-of-the-Border

The most successful retirement community brand in North America is Sun City. The developer, Del Webb, wanted to provide real community to active senior adults, and then let the retiree decide what part of the United States made the most sense for them. They developed communities in the deserts of Arizona, along the coasts of Florida and California, in Texas and the Mid-West, and the piedmonts of the East Coast. Del Webb knew how to build the services and amenities that everyone wanted and then offered clients the option to choose what type of climate and environment suited their needs and wants best. Their success has been unparalleled in the industry.

It is now possible to advance the Sun City concept one step further and create a menu of attractive lifestyle options to serve the millions now searching for retirement homes in Latin America. This is an already large market and it continues growing quickly. However, once outside of North America, a new set of considerations becomes critical.

Today's consumers largely take for granted the basic comforts of reliable electricity, excellent water pressure, high-speed bandwidth for internet, access to top notch medical care, and quality construction. In Latin America, many developers fail to provide even these basic services. They are often little more than a collection of barren lots with limited infrastructure. Most have few or no homes or residential product in place. The major reason that so few projects achieve this level of product is that it requires that significant resources be invested up front. These "ghost towns" are likely to remain just that.

Boomer retirees want life, activities, neighbors, and community, something that the majority of these projects, sadly, cannot offer. Only a few developers deliver the excellent infrastructure and amenities needed for a high quality of life experience that North Americans have come to expect. A "Sun City of Latin America" would provide high quality products in a variety of climates like a home along the Pacific or Caribbean coasts, in the cool tropical mountains, or in the arid, high deserts of South America. Investors and companies who can provide such a product are likely to do very well.

The Demographics

The Baby Boomers represent more than 84,000,000 individuals in the United States and 9,000,000 in Canada. Over the last 60 years almost everything that was popular with the baby boomers became a huge commercial success. They have produced a disproportionate impact on the economy at each stage of their lives and companies that placed themselves in the path of this "age wave" did very well. This wave of opportunity continues right now as they enter the age of retirement.

Today 500,000 U.S. retirees receive Social Security checks overseas. These are people who were born before 1946 and are not part of the huge demographic bubble about to hit the market. The Baby Boomers proper, people born 1946 to 1964 are just now entering retirement and many will be relocating and building warm-weather, retirement and second homes in Latin America.

With a half a million already retired outside the US, the projected demographic data is even more powerful. Several large surveys map the nature of emigration attitudes in North America. The Zogby Company surveyed 103,000 Americans and discovered that 18% of the respondents representing more than 26,000,000 Americans have a desire to move or own property outside the United States. 4,500,000 listed Latin America as their first choice.

TD Waterhouse recently surveyed Canadian Baby Boomers. 45% of the respondents plan to spend one month or more outside Canada in retirement. With 9.3 million Canadian Baby Boomers this equates to over 4 million retirees who will be renting or owning property outside Canada in their golden years.

The bottom line is that Baby Boomer retirement will largely drive this market over the next 20 years. The trend is in its infancy. As many more retirees look to the tropics for affordable, yet enhanced retirement lifestyles, phenomenal growth in these in these already large numbers is likely.

Why Latin America?

The region of Latin America is growing by leaps and bounds. Proactive policies on the part of the countries themselves have become instrumental in attracting foreigners, and hence their capital, to the region. More than 1,000,000 North Americans reside in Mexico part or full time, 40,000 Americans have homes in Costa Rica, and 20,000 call Panama home part of all of the year. Each country in the region has its own attractions and incentives that draw tourists and permanent residents alike, and they are all competing to provide excellent retirement packages.

Latin America is in the middle of a successful transformation with real GDP increasing at a rate of over 5% per annum through 2008. While the period 2009 – 2010 slowed, the region is already rebounding economically and GDP growth for 2011 was over 6%. Growth in conjunction with improving economies and regional stability drives the improvement of infrastructure, economic situation, and position in the global marketplace. These, in turn, make the region more viable economically, while at the same time improving quality of life, safety, and marketability of the countries therein.

But perhaps the most important reasons retirees are looking at Latin America are the “soft” factors like proximity to the US, Canada, family, and friends. Flying north to south limits the time zones crossed to two or three making travel and communications back home simple and easy. Safety, stability, and services are important base lines, but convenience is perhaps just as, or more important in the end for consumer satisfaction.

Financial Factors and Emigration

Ernst & Young produced a study in July of 2008 that predicted 60% of US retirees would need to cut back on spending in retirement or face the prospects of outliving their nest eggs. What would you cut back, food, medicine, heat? Imagine living your life every day wondering if you were going to outlive your funds. It's a scary proposition.

In addition, the U.S. Commerce Department reports that Baby Boomers are now saving almost nothing. Although the recent economic shocks are changing that trend, for most Boomers, there is simply not enough time to accumulate what was not saved or lost in the markets in 2008. Even today, almost half of U.S. Boomer retirees (48%) expect to count on Social Security during retirement and 15% expect to rely on it for most or all of their retirement needs.

This is a dire situation for many. Where can they do that and have a high quality of life in North America? The ability to enjoy the kind that they've always dreamed of is simply not feasible in the United States on the limited funds and Social Security payments they possess. More retirees will look elsewhere, many to Latin America, looking for ways to cut costs in retirement. Wonderfully they will also discover that they can enjoy a higher quality of life on a budget that they can afford.

Capitalizing on a Crisis of Supply

When one examines the supply of high quality home sites in the region, one quickly sees the impending shortage. If one considers the amount of residential product with world-class infrastructure and amenities, the shortage is magnified immensely. Knowing why there is a shortage of supply is critical to understanding why investment in the region makes so much sense.

Most developers in the region sell a speculative type of product. It has also been called "cut and run." This literally means that a developer buys a large tract of land, adds the minimum infrastructure like dirt roads and electric poles, then sells the lots to speculation buyers. Large expenses like water and sewage treatment are often offloaded onto the consumer, who must drill wells and build septic systems if they decide to build a home. In many cases soils are heavy clay which won't perk, and water tables are located deep underground. In addition to the obvious environmental issues, this ends up costing buyers much more than their share of a centralized system.

A 2009 developer survey by Christopher Kelsey & David Norden clearly points to the growing consumer demand for products with high levels of infrastructure, amenities, and "reality." Prior to the real estate and economic crisis in 2008, most consumers were willing to "bet on the come" and buy pre-construction and speculative product. Today their attitudes are very different.

When surveyed again in 2011, developers agree by an overwhelming 94% that consumer's expectations for clarity and commitment from the developer for the delivery of promised amenities will be greater. 92% agree that consumers will want to see the infrastructure and amenities complete before purchase. 85% see an increased trend by consumers to purchase completed homes and condominiums rather than vacant lots and pre-sales opportunities.

Consumers who are now retiring want and need something different as the Norden survey and other research data suggests. Retirement overseas is already happening with more than 500,000 receiving Social Security checks outside the United States. If the Ernst and Young State of Retirees report is accurate, then we will see this trend grow even faster as more people search for ways to lower their cost of living without giving up the important quality of life issues.

The Sun City of Latin America

The Baby Boomers are about to enter their next stage of life with more time and more money than any other demographic group of people in history, this even after the 2008 meltdown in the financial markets. As a result of longer life expectancies, these consumers know that they will have many more years of life after retiring than the majority of their predecessors ever did or do. With this time, they want to travel, continue working, and even start new careers. They want infrastructure, amenities, activities, neighbors and community. They are willing to pay a premium to get it.

Latin America offers exceptional and diverse climates with a high quality of life at an affordable price. Our company, ECI Development is already serving this market and is, right now positioned to capture an even larger segment as it grows and expands.

You may want to look at what we are doing and how you can participate. Visit our website and be in touch. The opportunities are dramatic and timely. We don't often get the chance to spot the trend this early with vehicles in place to ride the wave. Seize the moment. You'll be glad you did.

Risk and the perception of risk are two different things.

*by Michael Cobb, Chairman and CEO,
ECI Development*

Many people drive cars, yet are deathly afraid of flying. This is insane, because we all know that statistically flying is between 60 and 200 times safer than driving depending on how you measure it. Yet many people talk on their cell phone and change lanes all while speeding in traffic on the way to the airport. Then feel fear as they plane rolls down the runway.

There are some great studies on why this is so, fascinating actually, but let it suffice, that this fear is irrational. But it is very real. Some people succumb to it and won't get on an airplane. Most of us however, if we have that fear, suck it up and get on the plane anyway. It is possible to get past this fear and get on with the business at hand.

How does this example tie back into investing? Simply that **what appears or feels risky, may actually be a lot safer than what we know**. For example, ownership of property in Latin America, or even ownership in a development company working in the region may seem like a great risk. But is it? Only an empirical examination will actually tell us.

The plane is leaving, with or without you, and opportunity is on board.

What if a small amount of due diligence on your part would uncover the facts and reality of such an investment? What if you examined hard data under the light of objective scrutiny and it showed that it was indeed less risky to own overseas property or part of a development company than owning shares of big blue chip companies like AIG, Bank of America, GM, and GE. Are you ready to take action and “get on the plane anyway?”

80 million boomers are right now just beginning to retire and sell off the vast \$40 trillion holdings of securities they own. The price that they receive will be determined by the laws of supply and demand. But no matter what the price (likely lower) these folks will still have some cash in hand and will want to spend it on their retirement. But with less cash, what options will they have for a quality retirement?

The bottom line is that this huge group of baby boomers will retire over the next 20 years. Many of them, almost a quarter, have expressed an interest in living part of their retirement overseas. In addition to US retirees, nearly half of the Canadian boomers (45%) plan to spend at least a month or more outside Canada in retirement according to a TD Waterhouse survey last year.

Surveys describe what might happen. Even more relevant is what people are actually doing right now. Today, over 500,000 retired US citizens already live outside the country, many picking up their Social Security check at an embassy or consulate outside the United States. You see, this trend is not “going to happen.” It is happening.

The harsh reality is that retirees will have less money than they anticipated. How many more will consider the option of a life outside North America? Will they buy? Will they rent? Who is going to be their landlord? Who will own the home or condo they will buy? Why not you?

Even better, who is going to own the company that develops the resort retirement communities and builds the homes and condominiums that they choose to call home? Imagine owning a piece of the major company in the Latin America serving these retirees as they come south of the border looking for a new home with all the comforts of “back home.”

The great companies who served the Baby Boomers well in the past 60 years have enjoyed phenomenal success. The Chrysler mini-van is a super example of a product fit to the specific Baby Boomer need at the point they had kids to haul around. Do you think forward looking companies will make a nice return as millions of these same Boomers look for a retirement south of the border? Retirement is simply the next stage and investors who position themselves to serve these Boomer consumers will do very well.

An Ernst & Young report in 2008 shines light on the uncertainty many future retirees face right now. It is the threat of living longer than their retirement savings last. This will most certainly have more folks looking south of the border for the high quality, affordable retirement they've always dreamed of. If you'd like a copy of the E&Y study, let me know and I'll send it to you.

Unfortunately, many people who planned for a warm weather retirement, may no longer be able to afford a North American dream retirement in their golden years. Sure you can pick up a condo in South Florida for a song right now. But what does it cost to live there when you factor in taxes, insurance, HOA dues, food, entertainment, and all the other things you need to have a comfortable life. What kind of life can you have on \$1200 - \$1500 - \$2000 per month in South Florida no matter what you paid for your condo?

The major appeal for retirees looking south of the border is living in a country where a one-hour massage costs a mere \$12.00, a full time maid costs less than \$150 per month, a nice steak is less than \$2.00 per pound, and a movie with popcorn for two is less than \$8.00. Lower costs for the basics and even luxuries translate into an affordable, high quality of life.

A full time maid. Imagine that. No more chores ever. Time to play golf, relax in a hammock, get involved and work with a church or service organization making the lives of others better. Millions of retirees are going to say yes to this vision of retirement and you have the opportunity to serve them.

Smart, forward looking investors will put themselves in the path of progress in the same way that Levi Strauss built hardware stores to serve the gold miners. More and more people will hear about the golden life south of the border and they will want to have it for themselves too. Old Levi ran a boring business of selling shovels, boots, and jeans. Boring, but exceptionally profitable. He served the needs of consumers and he got there first. You can too.

You may already be tuned into the incredible opportunities outside the North America. If so, you are ahead of the curve and have a huge advantage. **By being part of a business that will serve these arriving consumers**, you can, just like Levi, provide something that is desperately desired and earn a nice profit as well.

Our company, ECI Development is already serving these retiring Baby Boomers. Take a look below to see the unique selling proposition we have in the market place and be in touch if you'd like more information about the company. The trend is already happening. If you want to take advantage of the opportunity to be out in front, then you need to act now. We are.

Taking the Sun City Active Adult Community Model South of the Border

*by Michael Cobb, Chairman and CEO,
ECI Development*

One of the most successful retirement communities North America had a powerful vision. They wanted to provide real community to active senior adults, and then let the retiree decide what part of the United States they liked best. This is the Sun City brand, which developed its communities in the deserts of Arizona, along the coasts of Florida and California, the piedmonts of the east.

This company knew how to build the services and amenities that everyone desired. They then offered clients the option to choose what type of climate and environment suited their needs and wants best. Their success has been unparalleled in the industry.

ECI Development is taking this concept one step further by serving the millions of Baby Boomers right now searching for retirement options in Latin America. This is an already large market and it is growing quickly.

The recent world economic downturn and the loss of vast sums of wealth in retirement accounts is further pushing this demographic to further explore ways to lower their cost of living without reducing their quality of life. In fact, living south of the border can provide an enhanced quality of life as long as the developer meets certain standards.

North American consumers take for granted the basic comforts of reliable electricity, excellent water pressure, high speed bandwidth for internet, access to top notch medical care, and quality construction. In Latin America, many developers fail to provide even these basic services. The vast majority of projects in the region are one country, one location. They are often little more than a collection of lots with limited infrastructure. Most have few or no homes and residential product in place. These ghost towns are likely to remain just that. Boomer retirees want life, activities, neighbors, and community, something these projects cannot offer.

ECI is unique because it delivers the excellent infrastructure needed for a high quality of life experience. Significant resources are invested up front for amenities like golf, tennis and health facilities. Build requirements ensure that community happens quickly.

Furthermore ECI provides real choice for retirees where it matters, in location and climate selection. This is accomplished by developing properties in the various geographies of the region. Owners can choose from a home along the Pacific or Caribbean coasts, in the cool tropical mountains, or in the arid, high deserts of South America.

Just like Sun City in North America, one geography doesn't fit all clients looking for a retirement home South-of-the-Border. Some folks prefer warm moist air, others dry arid climates, some like mountains and eternal spring, some the beach, some like to golf, others tennis or boating. ECI provides a high level of amenities and infrastructure, provides real product choice, and is setting new standards in the region.

The Boomers are a discerning crowd and now demand retirement homes that serve their comfort needs and lifestyle wants. ECI delivers the lifestyle and location choice people desire in retirement. You can join us in serving these baby boomers. E-mail me now at **mcobb@ecidevelopment.com** to see how you can be involved too.