

Premeditate and Build Pre-emptive Structures says Top Lawyer as the Winds of Tax Change Arrive

The Hubbis Asian Wealth Solutions event in Singapore on June 8 features a lively discussion on tax and the rising pressure on disclosure and compliance. A small panel of experts offered their views on tax, estate and asset planning that will provide private clients with robust structures for the near and much longer term. John Shoemaker, Registered Foreign Lawyer for Butler Snow in Singapore was one of our expert panellists, who brought an especially US-centric viewpoint to the debate. His core message was that higher taxes across the world are more likely than not, judging from developments in the US; accordingly, private clients need to open up to their lawyers and advisors and plan smartly and robustly, not so much to eliminate tax liabilities, but to minimise compliantly wherever possible.

GET IN TOUCH

[View this Panel Discussion On Demand](#)

[View John Shoemaker's LinkedIn Profile](#)

[Find out more about Butler Snow](#)



John Shoemaker
Butler Snow

“The US tends to play an outsized role in these types of developments over tax and new rules,” John told delegates, opening his commentary. “The US has recently gone through an election cycle that put the more progressive Democrats back in control. We then we saw an introduction by Senator Warren of the potential of a wealth tax in America, and we saw legislation introduced by Senator Sanders to reduce the estate tax exemption right now sitting at a little over USD12 million in the US. But at a USD12 million starting point, 99% of Americans will never face it, especially as for couples it is USD24 million that they could pass down without any estate duties.”

He did however report that this will reduce in 2026 to USD5 million per person, unless Congress amends that by 2025. “And in any case, that threshold is already being eroded by inflation anyway, so there is already a change taking place,” he said. “Moreover, anyone who knows much about US politics also knows that inaction is more likely, and Senator Sanders and others have suggested to maybe reduce the threshold to USD3.5

million or even USD1 million. And there have even been discussions around the next generation inheriting assets at their original acquisition cost, implying a massive shift of the future burden to them.”

All these moves and concepts, he cautioned, are leading the US towards additional taxes in many areas, as the US feels pressure to rake in more for its coffers depleted by the pandemic and other pressures. With global information exchange now coming through, there is also more ammunition for the tax authorities to chase down more revenues. “Watch and see,”

“You can be as aggressive as you are comfortable in being, but ring fence and plan for potential exposures... Try to ring fence assets, so that even if news does get bad on these taxes, you have planned ahead to minimise the impact.”

he said, “because if something happens, if the wealth tax gets real support and is introduced in America, I can easily see that putting pressure on other jurisdictions.”

He said that by way of example of the knock-on effect, after FATCA was pushed in the US – and the whole premise is clamping down on obligations of worldwide taxation – China made clear steps to remind everyone that that had always had worldwide taxation, and that is the case for any Chinese citizen living anywhere.

“If you still have your passport, your household is still registered in Mainland China, and very simply, you’re subject to worldwide tax,” he stated. “And now over the coming years, every

US trust company, every US life insurance company, every US bank is going to start sending data to Mainland China about Chinese citizens who have assets in America. The ramifications are huge, especially as generally there is rising pressure to raise more tax, especially from the wealthier who can afford it.”

John turned his focus on the advice he can offer clients of all types. He said when he counsels clients, there are some key areas he focuses on to ensure they end up with the best options in the future.

The first is flexibility. “Developing a more robust trust in the

trustee, I think gives that trustee flexibility in the future and it doesn’t lock the client into something in the deed language that then can be seized upon the future for an onerous outcome,” he told delegates. “In short, we need to do a better job of letting clients know that having flexibility within the trust deed might be looked at in the short term as you’re giving up some control, but really it results in more robust control in the future, even beyond the grave to make sure that there’s not an unintended outcome.”

The second piece of advice – one that he learned while working for a global banking giant as counsel – is to do a deep dive analysis. “We need to discover what clients

might have in terms of exposures in all areas and all jurisdictions,” he stated. “We need to look at how those exposures are structured, and what it all means.”

His third piece of advice is that clients should not let their fear of tax overwhelm the structures. “You can be as aggressive as you are comfortable in being, but ring fence and plan for potential exposures,” he advised. “For example, look at life insurance, look at other ways of ensuring liquidity, particularly with estate tax duties coming along potentially. Try to ring fence assets, so that even if news does get bad on these taxes, you have planned ahead to minimise the impact.”

He added that education and awareness are essential. “We need to all work hard to convey to clients that zero or extremely low tax is no longer a reality, that you must be tax resident somewhere, but that you can still legally manage your affairs to minimise taxation wherever possible,” he stated.

I think we all need to get off the back foot, off defensive thinking and into progressive or offensive thinking, which is getting bogged in the conversation. BEPS is the first thing that jumped into my mind as you started talking about corporate residency. And I fear we’ve already lost this, but it’s not completely kind of like FATCA and CRS His final word was that lawyers and

other professionals need to get on the front foot as practitioners and engage governments and regulators on key regulatory and other issues around compliant structuring, in order to help remove inconsistencies and misinterpretations.

“To that extent, Singapore is a wonderful example of that opportunity, as the MAS is very open to having these conversations, actually even wants this feedback,” he said. “The reactions and results might not be exactly what we hope but with the dialogue comes an understanding of the situations and it helps in that we are not surprised when changes happen.” ■

