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3 pre-immigration tax steps to save business people money

By Nina Lincoff

South Florida is an international hub, and with the amount of foreign nationals living in the U.S. or immigrating, there is a fair amount of worldwide income up for taxation. Unfortunately, for many businesspeople moving to the U.S., proper pre-immigration tax planning can fall by the wayside.

"It's more of a situation where they didn't get the right advice and very expensive mistakes were made," said Alan Lips, a partner with Miami-based accounting firm Gerson, Preston, Robinson & Co. "I spend a lot of time with clients where we do have to go back and fix things. It is much more expensive to do it that way."

Overall, there are two objectives in pre-immigration tax planning: No. 1 is to address the estate side of things, and No. 2 is to address the income tax side of things.

"When you have people who are moving here from outside and they are going through the legal process, they are often doing it to set up a U.S. business," Lips said.

According to Lips, anybody planning on immigrating – especially with around $10 million in assets or more, and if there are benefactors and international businesses in play – should engage in pre-immigration tax planning.

"If you don't, you could be look at a 40 percent tax," he said.
Lips offers three basics tax tips to consider, which will save both personal and corporate wealth:

Know your time limit

There's a certain amount of time a foreign national can spend in the U.S. before being considered a tax citizen. Out of a year, that's often six months, or 182 days. But for purposes of immigrating, there can sometimes be another standard.

"There is another test, called a substantial presence test, and that is a three-year look back on your days in the United States," Lips said.

If a person goes through that test, the average is 120 days in the U.S.

When considered moving to the U.S. and/or bringing a business here, first consider whether or not you're close to the maximum time allowed stateside.

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Ensure the future of your estate

“Before you are a United States citizen, you can do anything you want because you're not under U.S. tax law,” Lips said. “You can gift assets, you can move assets, etc.”

For businesses abroad, if a person is looking to keep those businesses out of their worldwide income, the entities better be transferred to another before immigrating.

“The first thing we are doing with that company is putting it in a trust. If that company or any portion of that company is going to be owned by anybody living in the U.S., therefore they become American, we want to be able to make special elections,” Lips said. “That allows us to treat it as a partnership or disregard the entity in the United States.”

The same goes with estate planning: Move assets before immigration to ensure benefactors’ futures. Even if a person does not immigrate to the U.S., if they have assets stateside – like real estate or a portfolio with a financial institution – those assets will be subject to a 40 percent tax upon the owner’s death.

Avoid paying taxes – twice

Those special elections taken against a business abroad? That can help businesspeople avoid paying taxes on the same thing twice – once in the home country and once in the U.S.

For example, if a Brazilian businessperson pays taxes in Brazil and then gets a credit against his U.S. income, he or she avoids paying twice.

“They’re paying the higher of the two jurisdictions’ taxes, but it’s only once,” Lips said.