



Key tax considerations for US citizens in Australia and Australians in the US

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Who we are

Pitcher Partners is a multi-disciplinary practice that can prepare tailored solutions that impact both Americans living in Australia and Australians living in the US.



US and Australian tax returns



Investment structuring



Residency and relocation



Pensions and retirement



Expatriation from US citizenship



Estate planning



Disclosure of assets



Property investments

Agenda

What we are covering today

➞ Overview of US tax filing requirements

➞ Pensions & retirement

➞ Expatriation & exit tax

➞ Q&A



01. US tax filings

“As a tax resident of Australia and a naturalized US citizen, is there still an obligation to lodge a personal tax return with the IRS if you have no US income and do not reside in the US for longer than 180 days during the calendar year?”

Who is a US person?

1

US Citizen

- US citizenship by birth
- US citizenship by naturalisation

2

Lawful Permanent Resident

- “Green Card” Immigrant status

3

Resident Alien

- 31 days of US presence in current year and
- “Look back test” – 183 days of US presence in the current and last 2 preceding years
- **4 months per year shouldn’t trigger 183 days in aggregate**

***“My daughter is a US citizen. She is 21 and has a casual job.
Does she need to file a US tax return?”***

US Citizen Children

Do US citizen children need to file a US income tax return?

Dependent children: under the age of 25 years old

Thresholds for filing

- **US citizen children** – taxable income greater than \$13,850 USD*
- **FinCEN Form 114 (FBAR)** – non-US financial accounts totalling more than \$10,000 USD

NOTE: Rules differ for US resident children of US resident parent(s): under 19 or under 24 and in full time employment and are subject to different thresholds

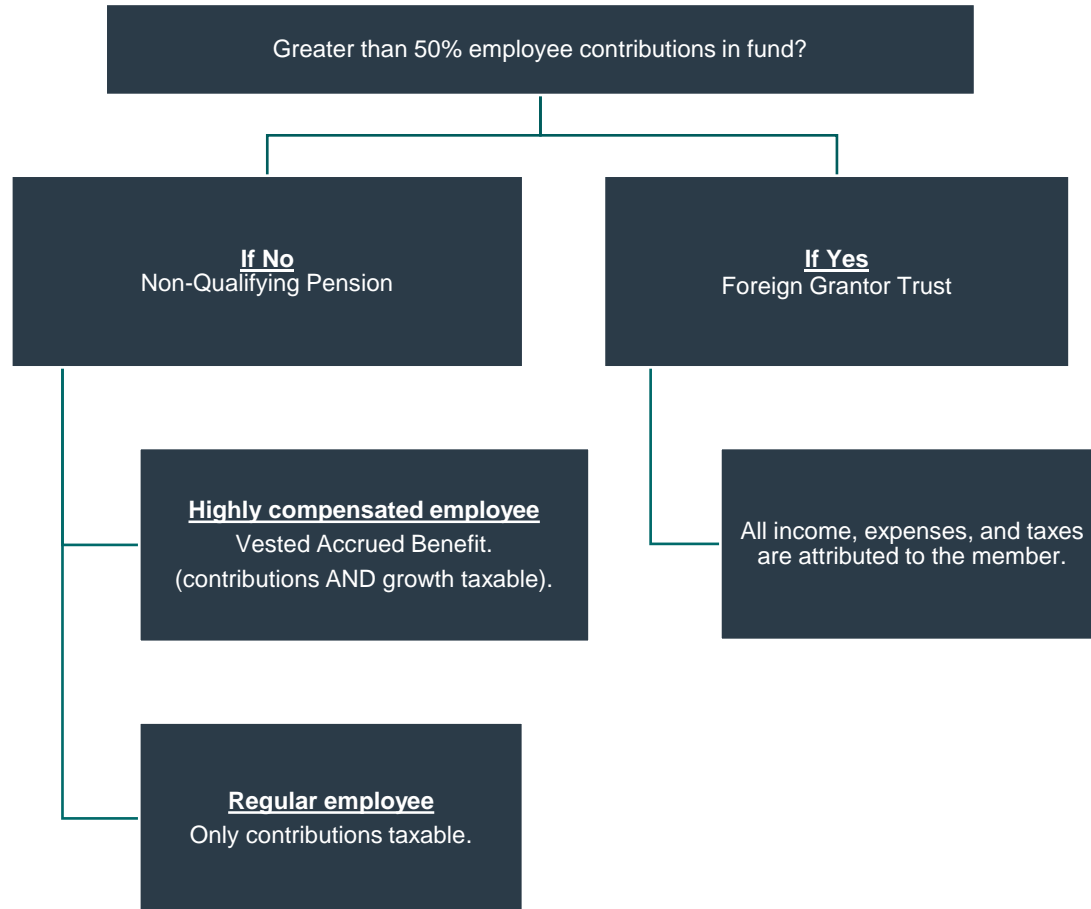
*indexed for inflation



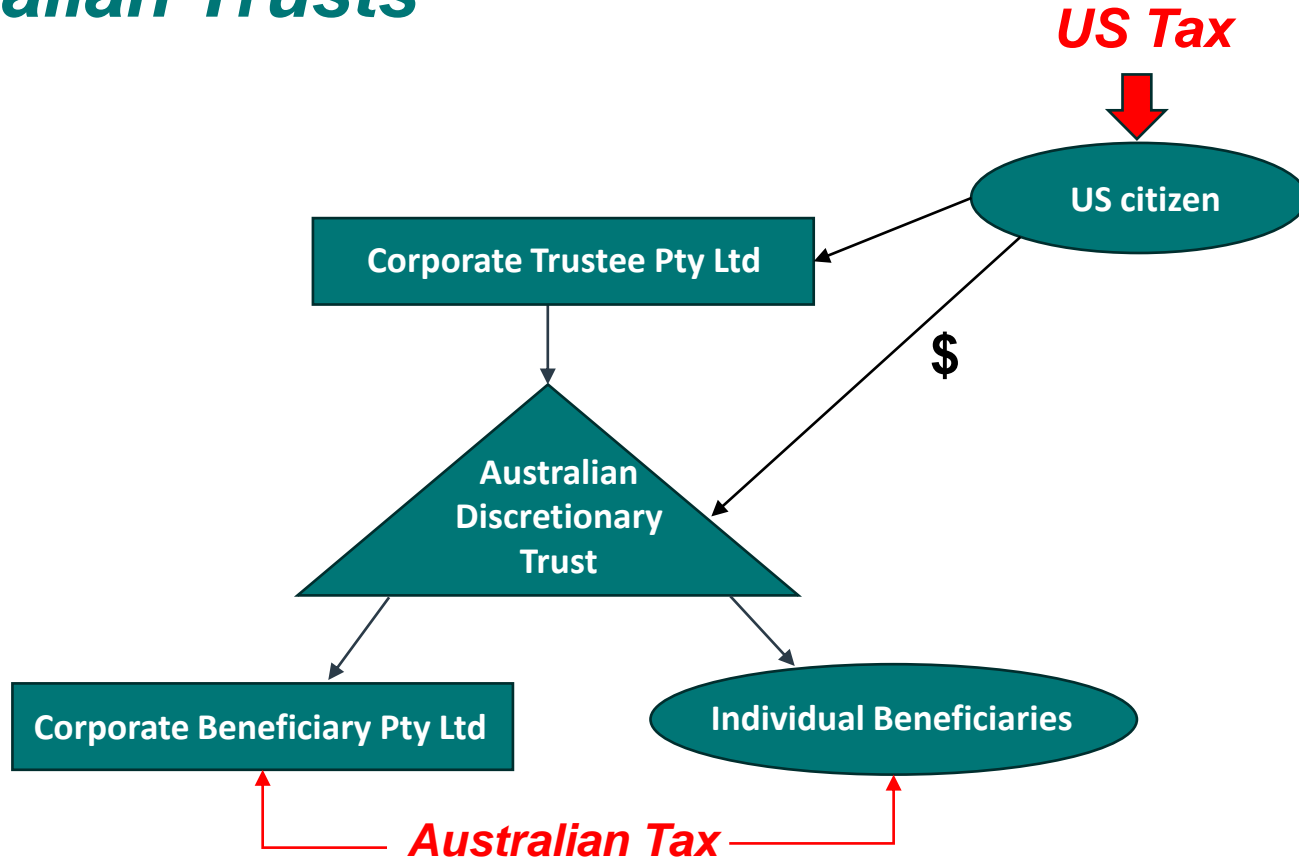
02. Retirement & Pensions

***“How are Australian Superannuation funds and family trusts
taxed under the US system?”***

Australian Superannuation



Australian Trusts



“How are 401(k) withdrawals taxed for Australian expatriates?”

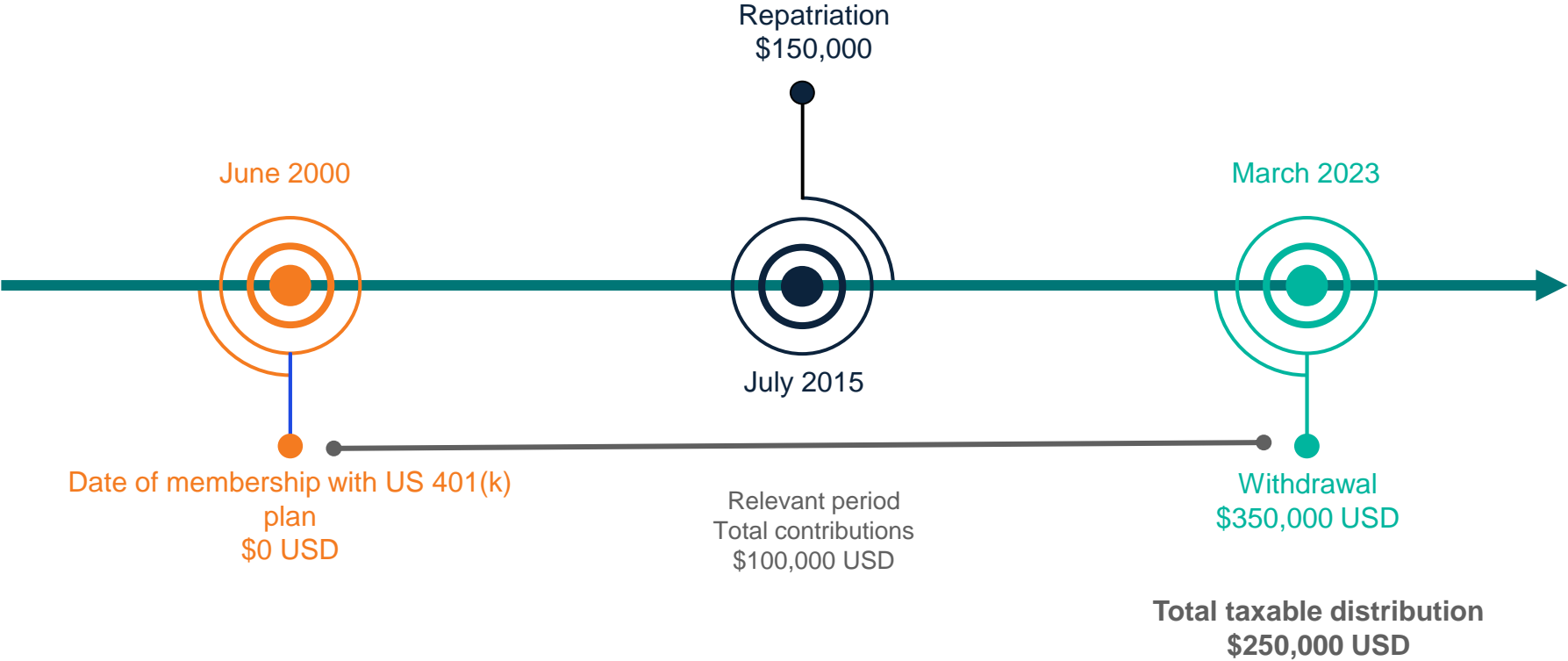
Taxation of foreign pensions in Australia

Foreign pensions are typically considered to be foreign trusts and are unlikely to meet the criteria of being a foreign Superannuation fund.

Foreign pensions treated as a 'foreign trust'

- Taxed on the income and earnings within the fund between the date of establishment and date of withdrawal
- Corpus is excluded from Australian income tax
- Where there is a foreign service period, a Foreign Income Tax Offset can be claimed to reduce any double tax.

Lump sum withdrawal of US 401(k)



US taxation of pensions

US tax is deferred until withdrawal

Traditional IRA

- Taxable upon withdrawal
- Can sometimes make post-tax contributions, which would not be taxable at withdrawal
- 10% penalty tax applied if withdrawn prior to 59.5 years old

Roth IRA

- Qualified distributions are tax-free at withdrawal
- Growth in plan asset value is tax-free
- 10% penalty tax applied if withdrawn prior to 59.5 years old

401(k) plans

- Qualified plans typically established by US employers
- Taxed upon withdrawal at marginal tax rate
- 10% penalty tax applies if withdrawn prior to 59.5 years old

Application of Australia-US Double Tax Agreement may result in no US tax if the US person resides in Australia at the time of withdrawal



03. Expatriation & exit tax

“Any advice for those who will abandon a Green Card? Is there any disadvantage when my kids with US citizenship inherit assets in the future?”

Who is a covered expatriate?

Three criteria to consider:



The Income tax test

- Less than US\$190,000 average over last 5 years prior to year of expatriation.



The Assets test (waived for dual-citizens at birth)

- Net worth is less than US\$2 million as of date of expatriation.



The Certification test

- In compliance with the last the 5 years of US Federal tax obligations
- Certification is indicated on Form 8854, submitted when filing final year's tax return.

Streamlined Voluntary Disclosure

Key points



3 years of late returns



6 years of FinCEN Form 114 (FBAR) forms



Offshore program – no penalties other than interest



Onshore program – 5% penalty on foreign assets

Expatriation & exit tax

Covered expatriate considerations



Exit tax on
Deemed sale
of assets



Deferred
compensation
subject to tax



Inheritance tax
levied at 40% upon
US recipient



04. Other FAQ

“What investments are considered to be US tax friendly?”

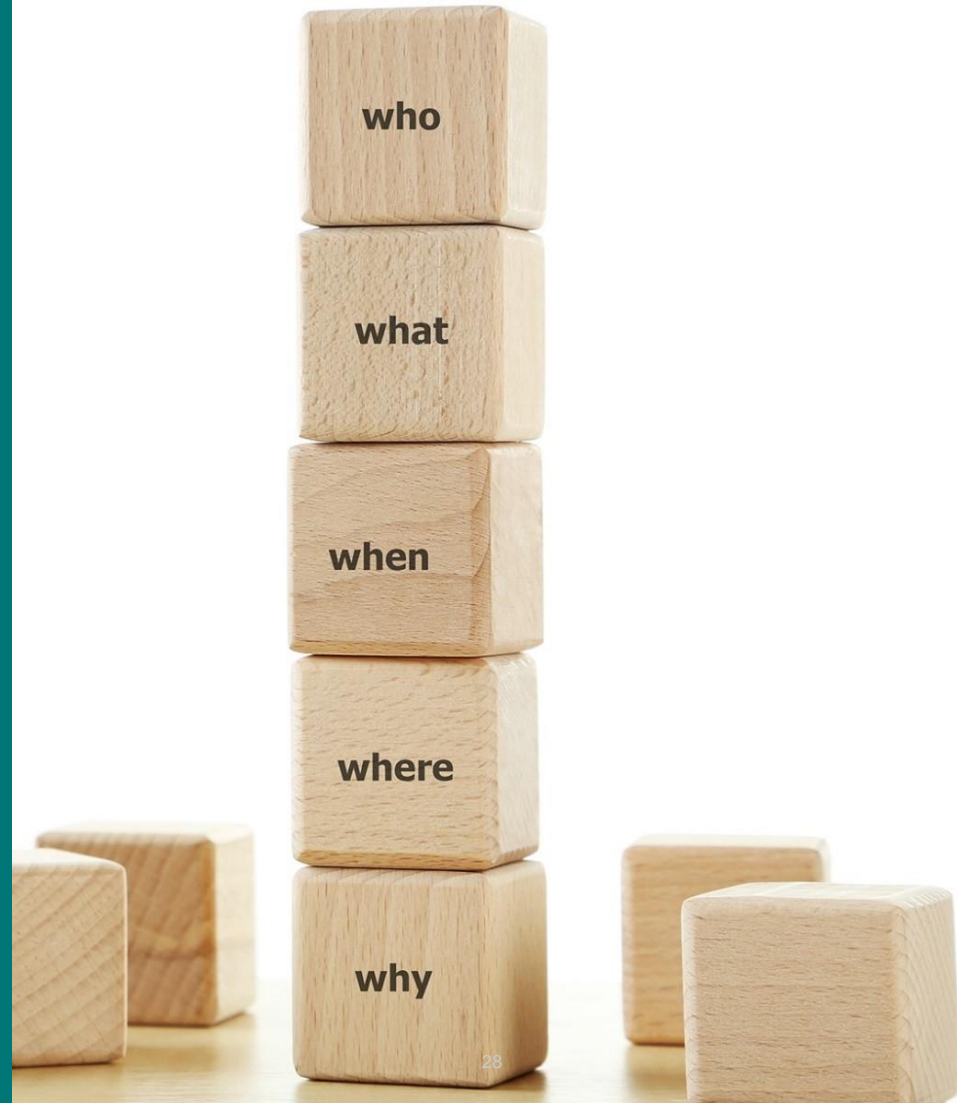
Tax effective investments for US persons

Investment	US tax friendly	Australian tax friendly
Interest bearing accounts	✓	✓
Directly held listed shares	✓	✓
Australian ETF's & mutual funds	✗	✓
Negatively geared investment properties	—	✓

“How can I plan for retirement and structure an estate plan as a dual resident?”

Cross-border planning

- ❏ In which jurisdiction should I build up my wealth ?
- ❏ Should I utilise my US assets or Australian assets to initially fund my retirement ?
- ❏ How do I protect against any unintended tax consequences ?
- ❏ Who is best placed within my family group to inherit my assets ?



Q&A



Thank you

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