

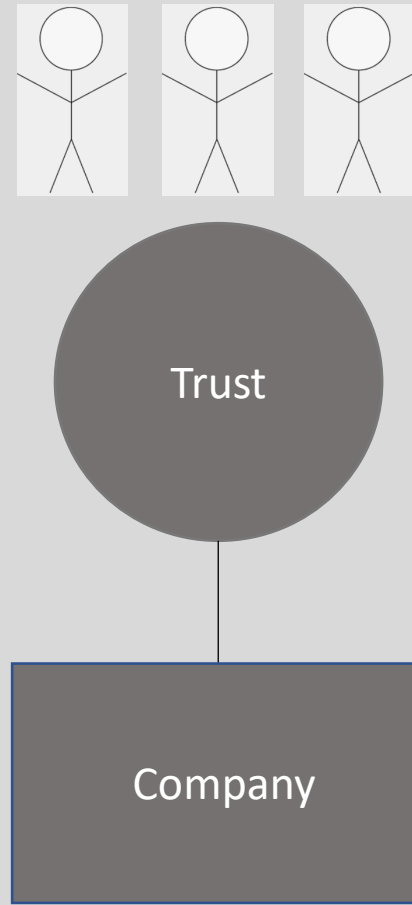


# **TRUST-COMPANY STRUCTURE: PUTTING IT ALTOGETHER (Part 2)**

(Domestic and Offshore)

*YOUR KEY TO THE TAX COMMUNITY*

# Trust Company Structure (Trust/Company Rate Comparison)



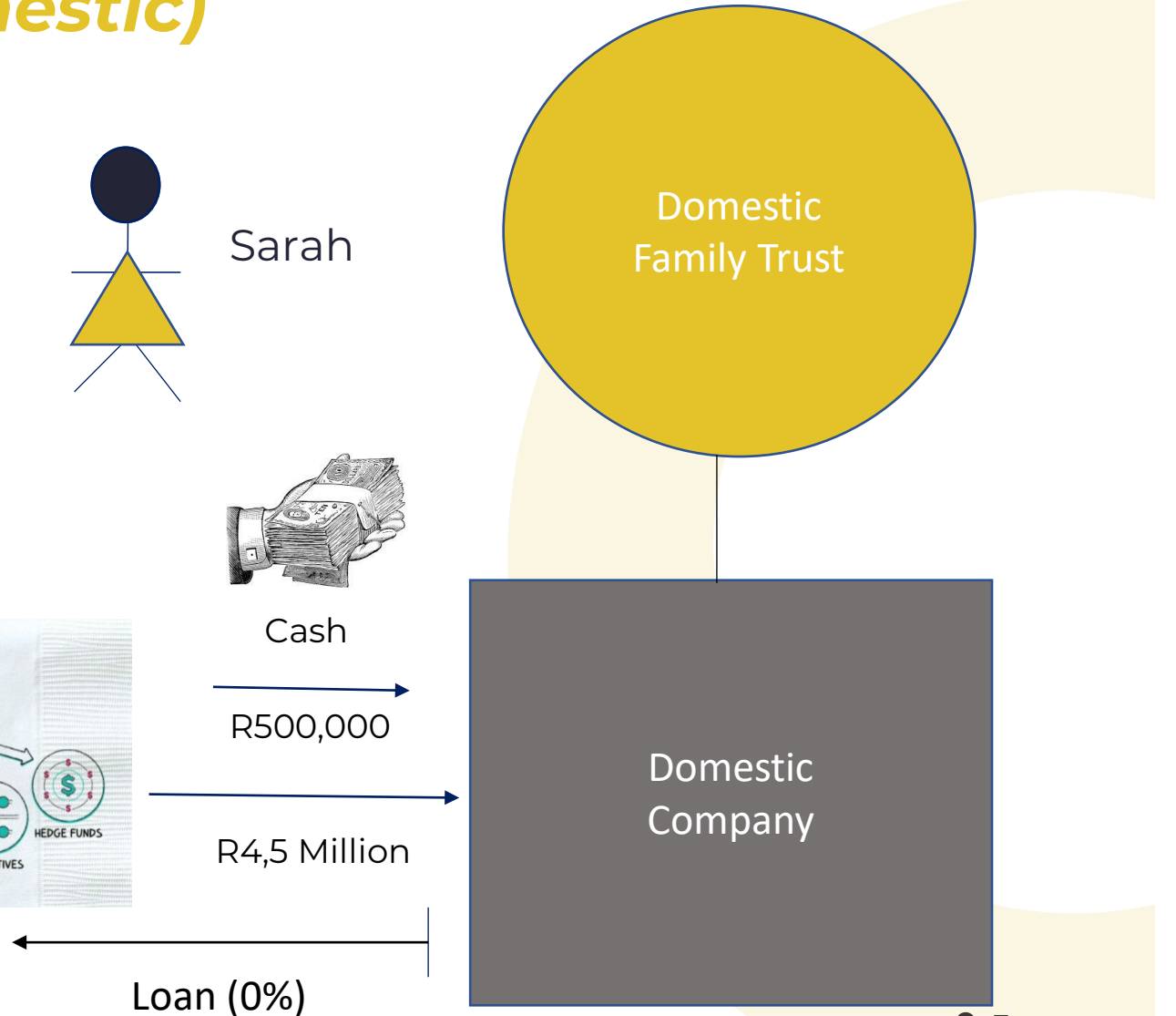
- Comparison
  - Interest
  - Dividends
  - Capital gains
  - Long-term insurance
  - Service Income / Trading Stock
  - Royalties
  - Currency gains

# Sarah Scenario #2a – Sale For Subsidiary / Loan (Domestic)

Sarah transfers R500 000 in cash plus an equity portfolio worth R4 million. The cash/assets are transferred to the company with the company becoming indebted to Sarah for R4,5 million.

The portfolio generate R600 000 per year in dividends and gains.

The loan does not generate any interest.



# Basic Questions for Scenario #2a

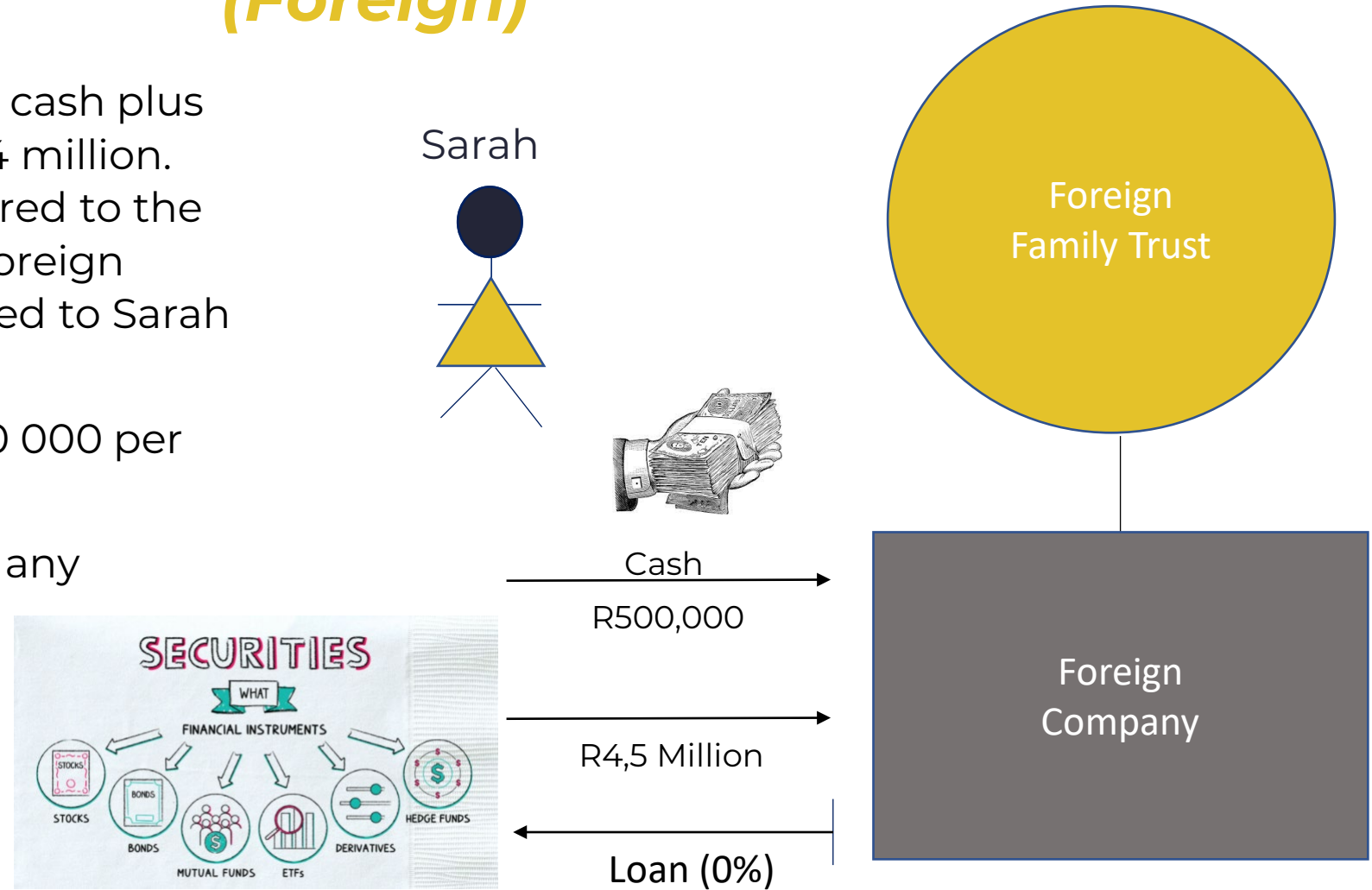
- What is the impact of the actual transfer of cash and the portfolio to the domestic subsidiary? Who will be taxed on these assets after the transfer?
- What is the impact of the interest on the loan?
  - What happens if the rate changes to 5% (official rate) versus 10% (market rate)
- Is there any advantage or disadvantage of loaning to the trust or the company?

# Sarah Scenario #2b – Sale For Subsidiary Loan (Foreign)

Sarah transfers R500 000 in cash plus an equity portfolio worth R4 million. The cash/assets are transferred to the foreign company with the foreign company becoming indebted to Sarah for R4,5 million.

The portfolio generate R600 000 per year in dividends and gains.

The loan does not generate any interest.



# Basic Questions for Scenario #2b

- What is the impact of the actual transfer of cash and portfolio to the foreign trust? Who will be taxed on these assets after the transfer?
- What is the impact of the interest on the loan?
  - What happens if the rate changes to 5% (official rate) versus 10% (market rate)
  - What happens if the loan is denominated in US dollars?
- Is there any advantage or disadvantage of loaning to the trust or the company?

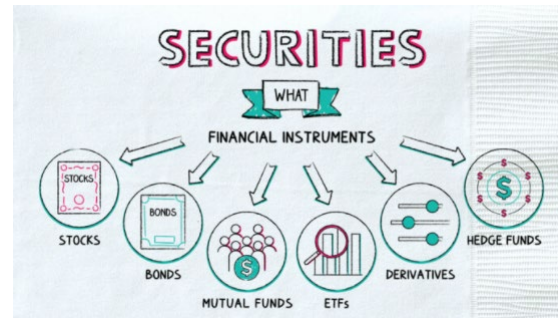


# Sarah Scenario #2a – Sale For Subsidiary Preference Shares (Domestic)

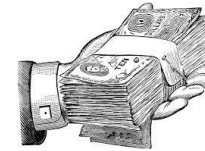
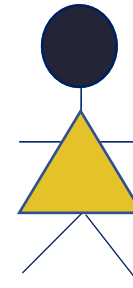
Sarah transfers R500 000 in cash plus an equity portfolio worth R4 million. The cash/assets are transferred to the company with the company becoming indebted to Sarah for R4,5 million.

The portfolio generate R600 000 per year in dividends and gains.

The preference shares generate 3% non-cumulative dividends



Sarah



Cash

R500,000

R4,5 Million

Preference Shares

Domestic Family Trust

Domestic Company

# Basic Questions for Scenario #2a

- What is the impact of the actual transfer of cash and the portfolio to the domestic subsidiary? Who will be taxed on these assets after the transfer?
- What is the impact of the dividends on the preference shares?
  - What happens if the rate changes to 5% (official rate) versus 10% (market rate)

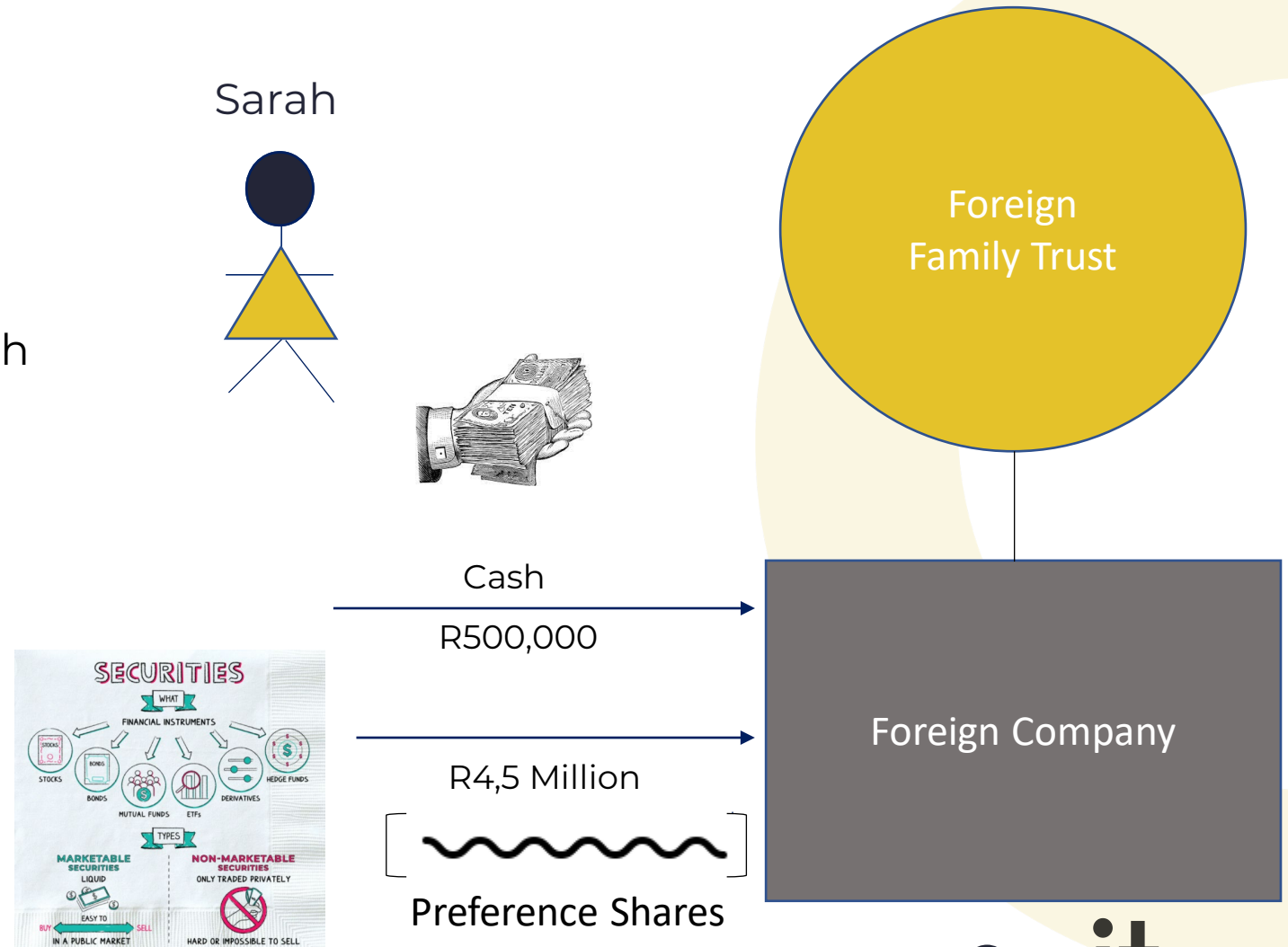


# Sarah Scenario #2b – Sale For Subsidiary Preference Shares (Foreign)

Sarah transfers R500 000 in cash plus an equity portfolio worth R4 million. The cash/assets are transferred to the foreign company with the foreign company becoming indebted to Sarah for R4,5 million.

The portfolio generate R600 000 per year in dividends and gains.

The preference shares generate 3% non-cumulative dividends



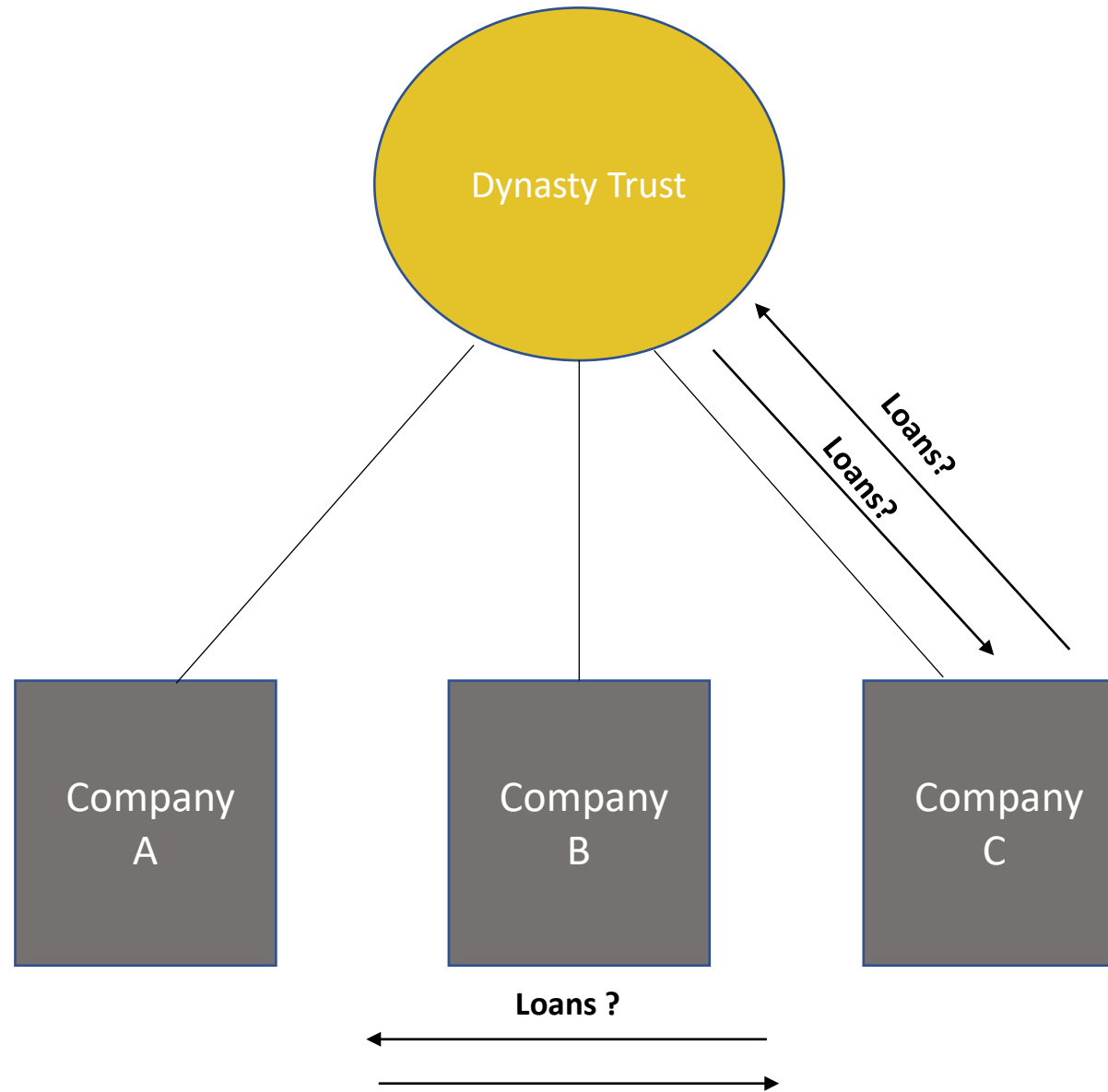
# Basic Questions for Scenario #2b

- What is the impact of the actual transfer of cash and the portfolio to the foreign trust? Who will be taxed on these assets after the transfer?
- What is the impact of the dividends on the preference shares?
  - What happens if the rate changes to 5% (official rate) versus 10% (market rate)
  - What happens if the loan is denominated in US dollars?

# Don't Forget 2003 Amnesty Assets

- Many older wealthy South Africans transmitted funds offshore when Exchange Control was more stringent (especially pre-2000) in violation of Exchange Control and tax laws
- The 2003 amnesty allowed for forgiveness for a relatively small fee
- In addition, amounts in a foreign discretionary trust must be deemed to be directly owned by the South African donor. Hence, the current section 7 are no longer meaningful?
- How does this impact the situation?

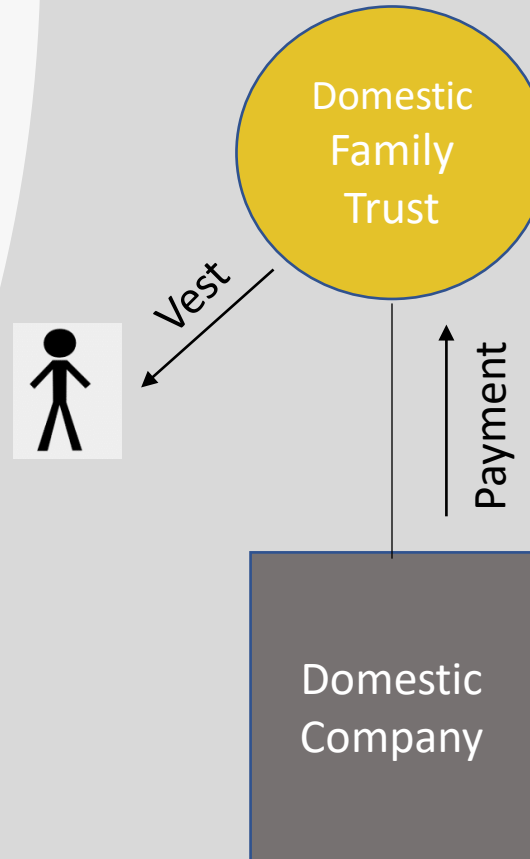
# What About Intra-Trust-Holding Company Loans?



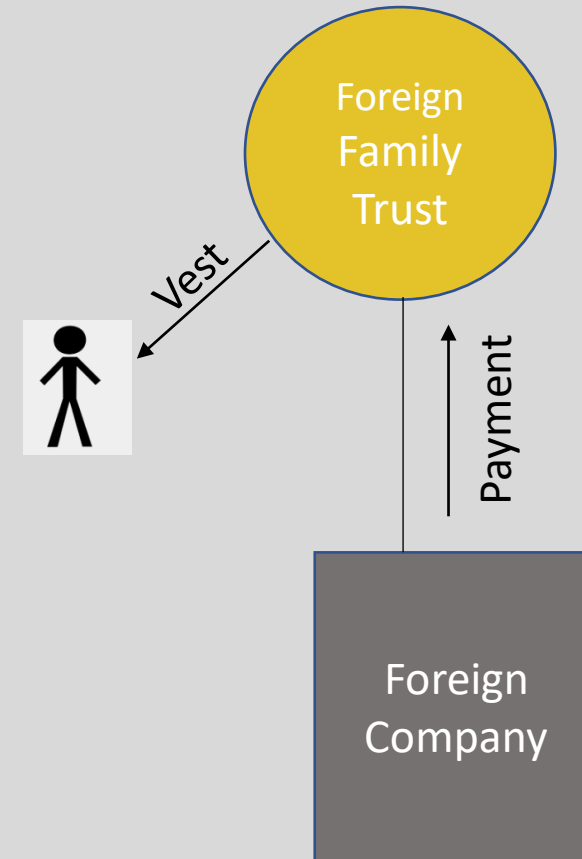
# Forms of Repatriation

# Backward Beneficiary

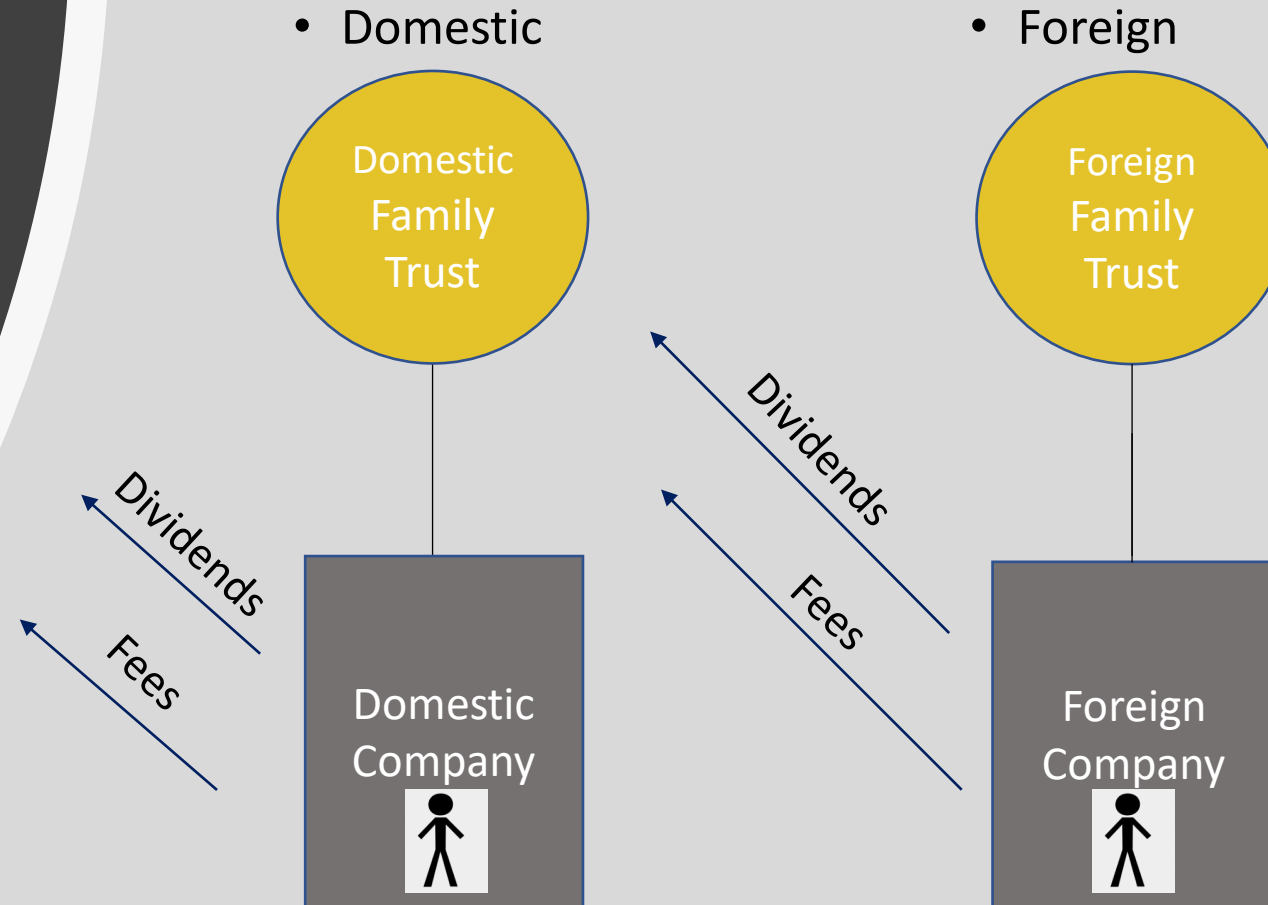
- From Domestic



- From Foreign



# Trust Subsidiary Dividends & Fees





# Backward Loans

