



TAX PLANNING

Presentation by:

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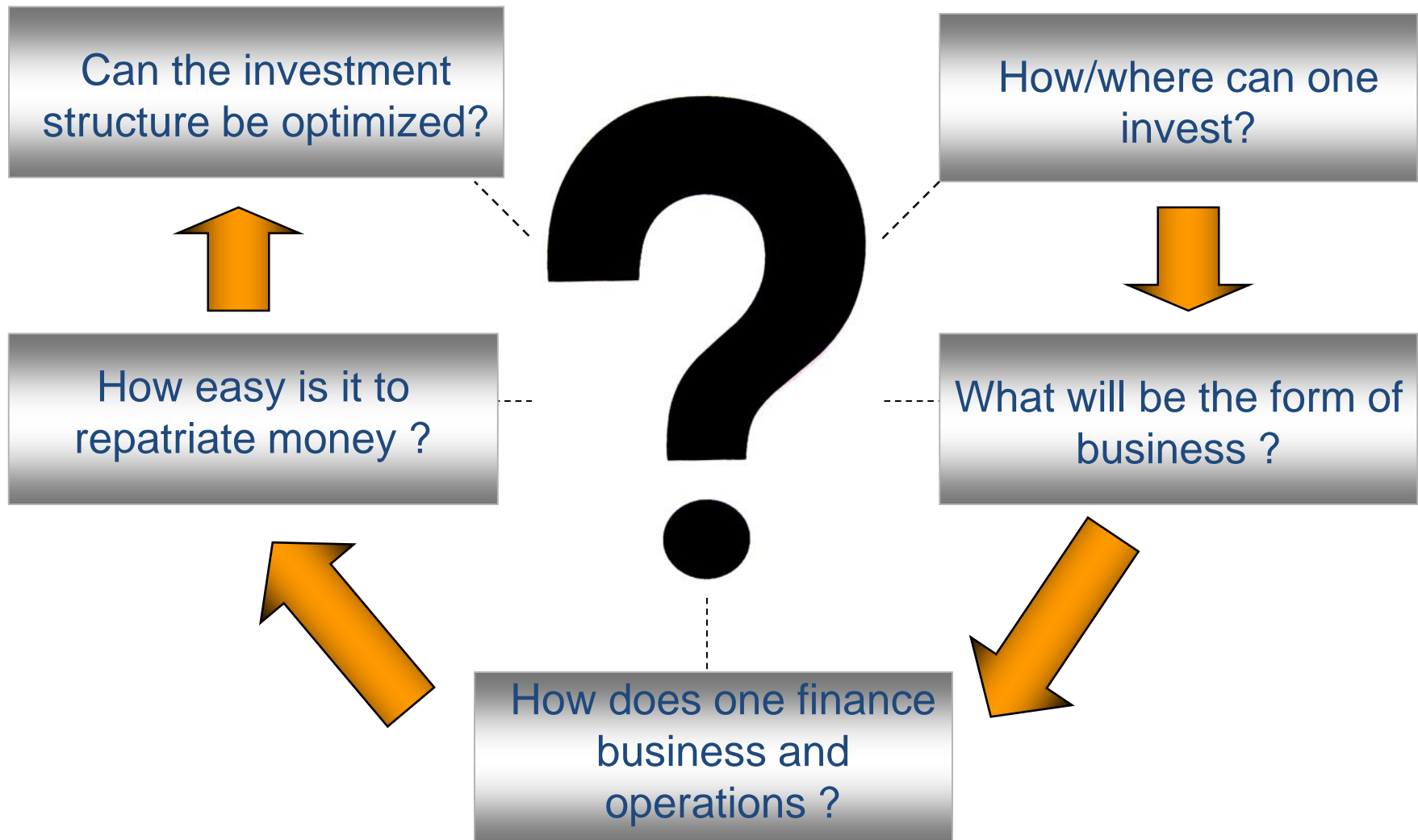
What is tax planning?



“...there is nothing sinister in [*legally*] so arranging one’s affairs as to keep taxes as low as possible. ...nobody owes any public duty to pay more than the law demands...”

(Justice Learned Hand, Comm. vs. Newman, 159 F.2d 848 [CA-2, 1947])

Business decision making and tax planning





Tax planning - Examples



- Choice between debt and equity for investment
- Choice between a branch and subsidiary
- Setting up an offshore investment vehicle
- Compensating tax - Splitting the dividends
- Taking advantage of double tax agreements



What is the government doing?



- Anti-tax avoidance provisions under the TPA
- Introduction of a principal purpose test (Sec. 66(1) of the VAT Act) where a:
 - a) a scheme has been entered into or carried out;
 - b) a person has obtained a tax benefit in connection with the scheme; and
 - c) The sole/dominant purpose of the scheme was to obtain a tax benefit.

Tax benefit: deferring tax, acceleration of deduction,
reduction in liability



What is the government doing?



- Limitation of treaty benefit provisions – Sec. 41 of the ITA
- Base Erosion and Profit Shifting (BEPS) provisions under the OECD
- Mining “big data” – deploying the capabilities of *i*Tax



FOLLOWING GOVERNMENT AND CIVIL SOCIETY ONSLAUGHT, THE FUTURE IS UNCERTAIN ...

It is not a theoretical tax debate. It is highly political, it has become a social issue, and it is very public due to the media exposure and public demonstrations



How can businesses respond?

What is the company's position on tax?

What are other companies doing?

What should we be doing?

What challenges might we face?

