EIRC – Two-Day Restructuring Conclave

Gifts, Inheritances & Business Succession

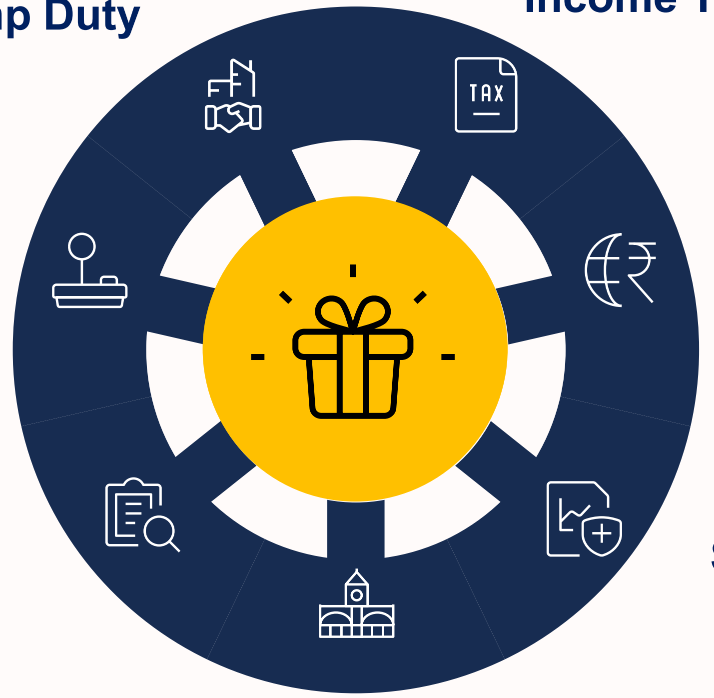
Speaker: CA Aditya Hans

July 2026

Gifts

Key Considerations

Key considerations to be factored while gifting



Stamp Duty

Transfer cost-

- *On gifting of properties to family member*
- *On gifting of properties to non-family members*

Income Tax

- *Relative and non-relative gift tax exemption*
- *Clubbing provisions on gifting*
- *Tax implications on gift to and from HUF*

Cross Border Implications

Impact of Laws of other countries in case of cross border situation

FEMA

FEMA restrictions and limits where non-residents are involved

RBI

Considerations around RBI approval where NBFC is involved

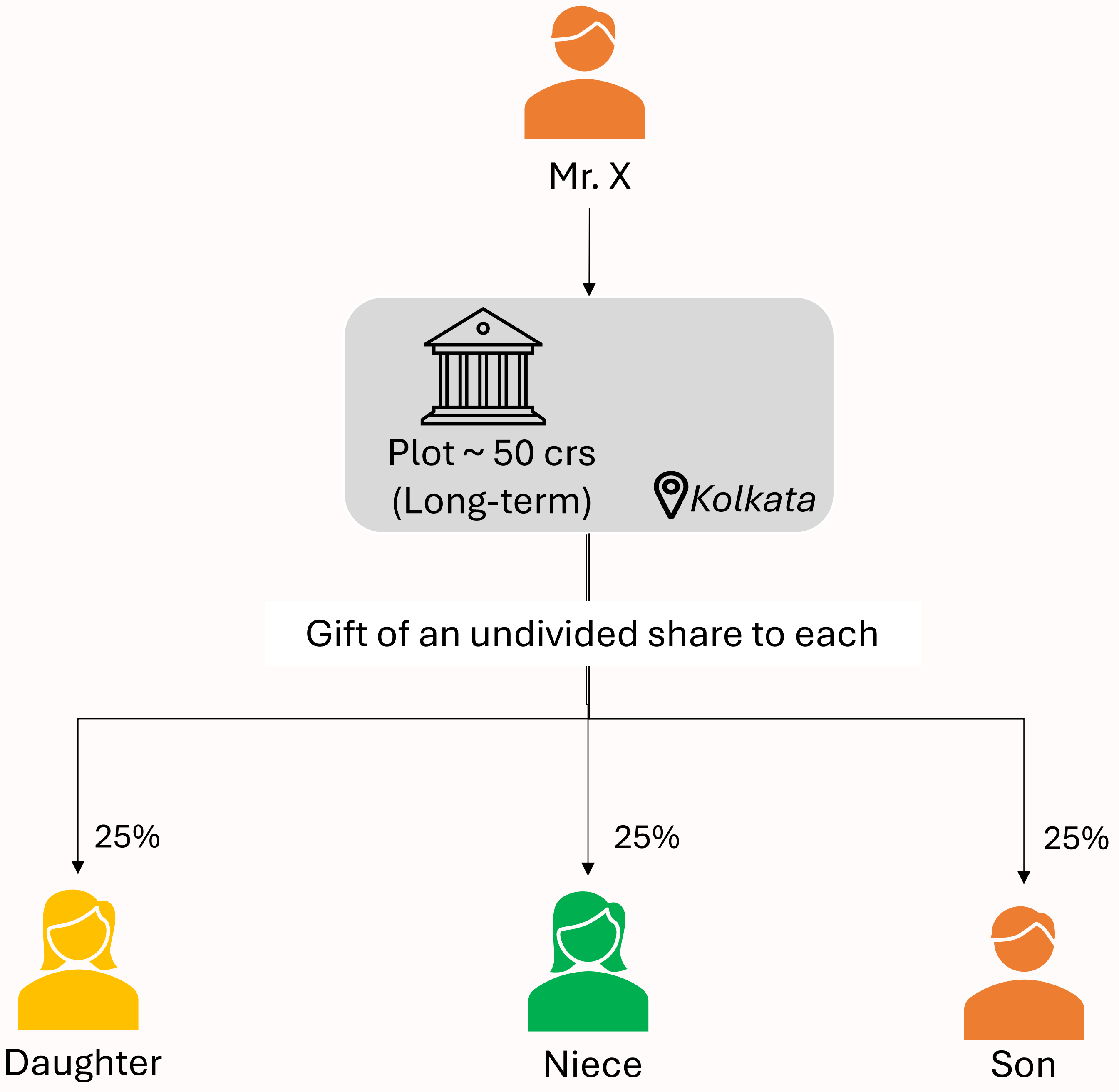
SEBI

Impact under Takeover Code, where shares of listed companies are getting transferred

IRDAI

Approval from IRDAI where Insurance company (TPA / Broker) shares are involved

1. When a family shares ownership of land



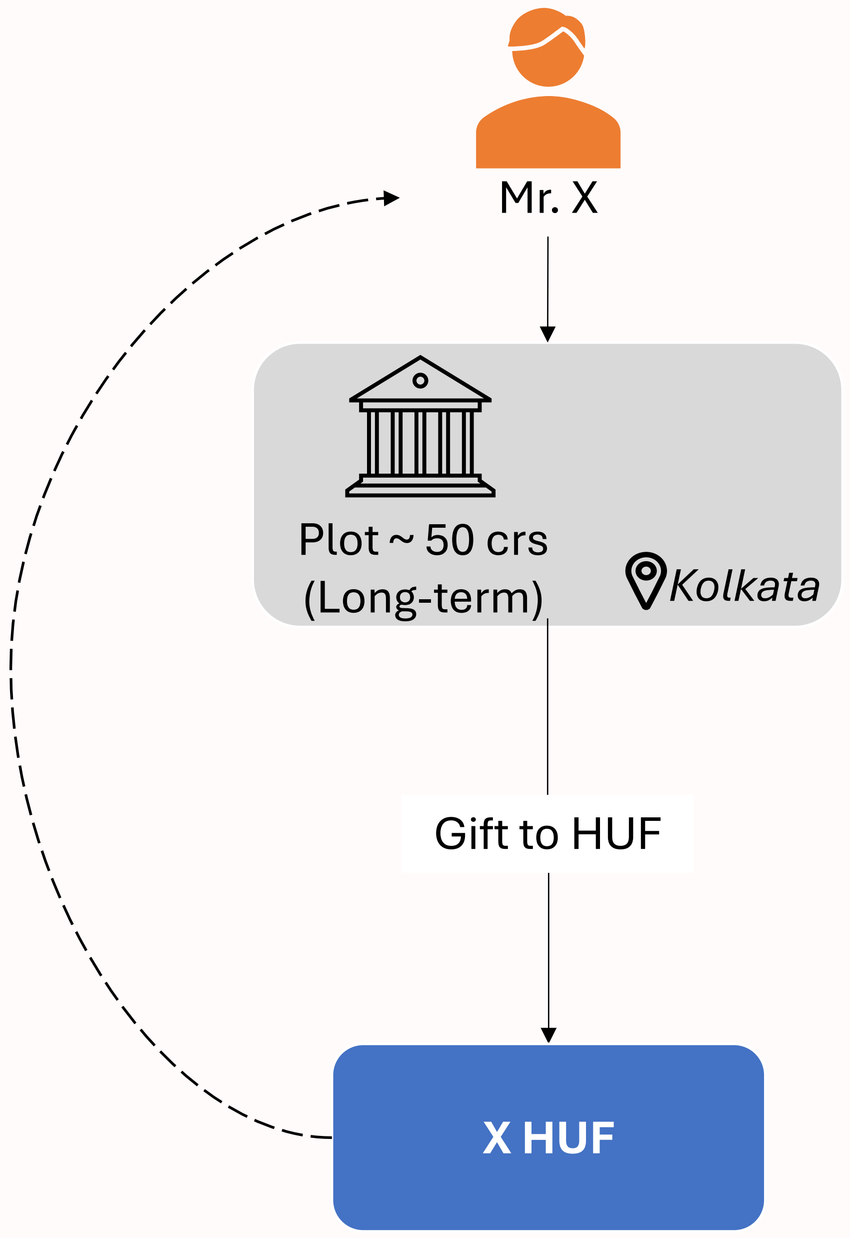
Facts:

- Mr. X holds a plot in Kolkata worth around Rs. 50 crore, owned long-term. He gifts an undivided one-fourth to his daughter, son and niece, keeping a fourth.
- In future, the family sells the whole plot to a Developer

Key Considerations:

- Income tax implications on the gift transaction
- Stamp duty implications on gift of an undivided share in land
- Income tax implications on sale of the plot in the hands of the four co-owners

2. Into the HUF, Out to the Family



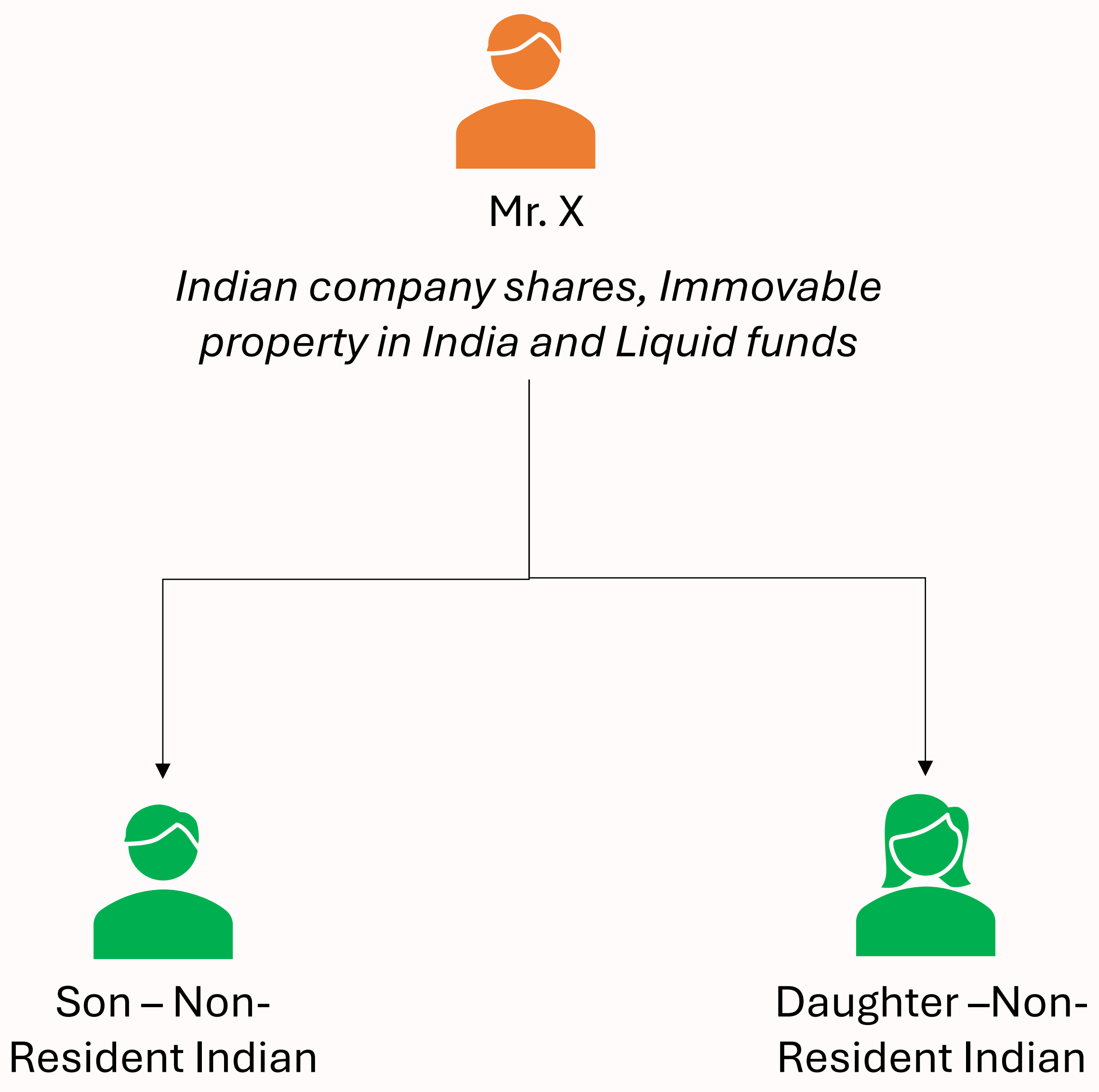
Facts:

- Mr. X gifts an immovable property and shares of an Indian company to the HUF
- In future, the HUF distributes these assets to its members
    - Is gifting tax efficient?
    - If not whether it should be distributed via partition?

Key Considerations:

- Income tax implications on the gift transaction
- Stamp duty implications on gift to HUF
- Income tax implications on distribution by HUF to its members

3. Gifting to non-residents?



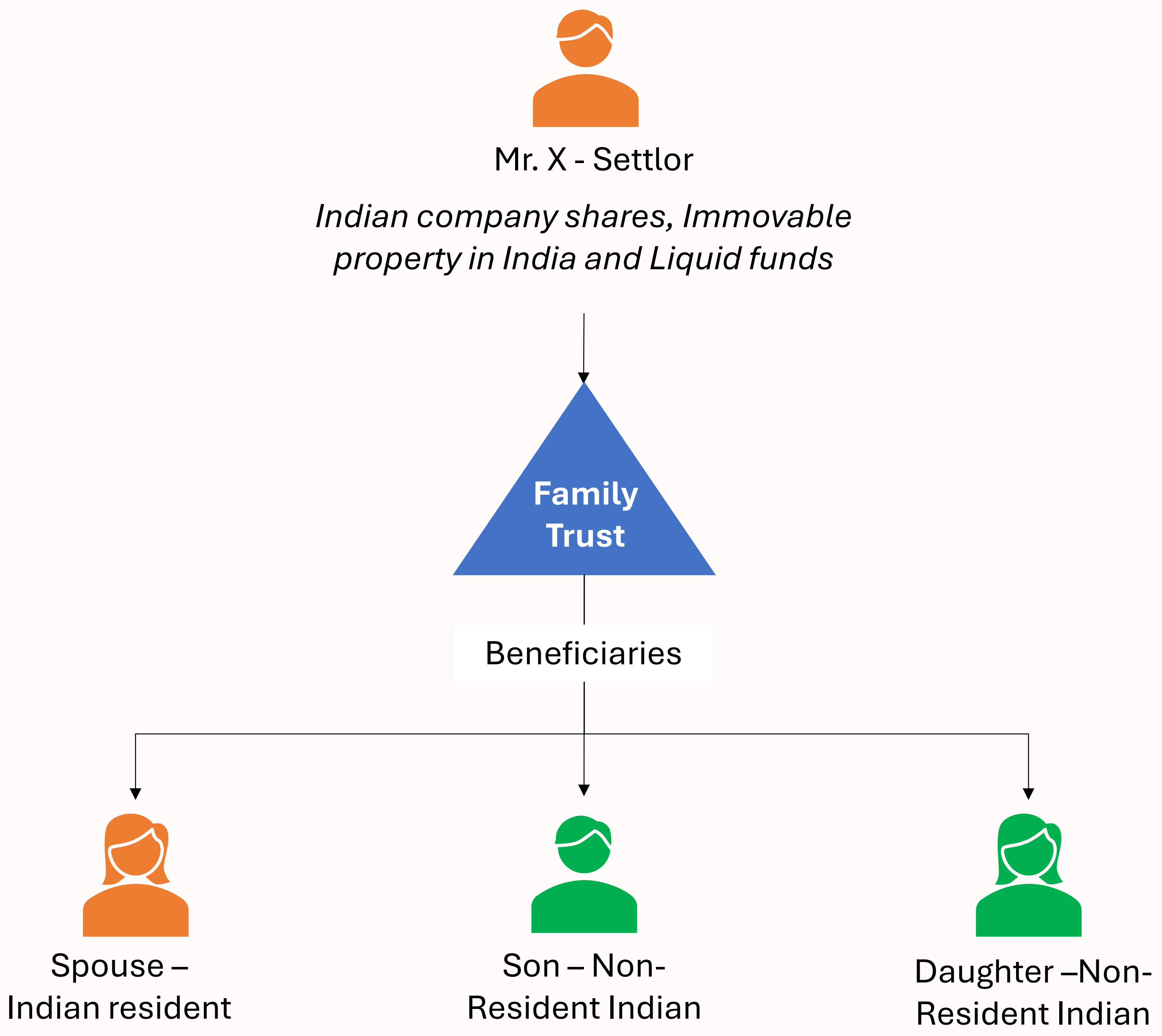
Facts:

- Mr. X, a resident, wants to transfer his Indian shares, property and liquid funds to his two non-resident children
- Whether gifting is possible?

Key Considerations:

- FEMA implications on gifting

Settlement of assets into a Private Trust?



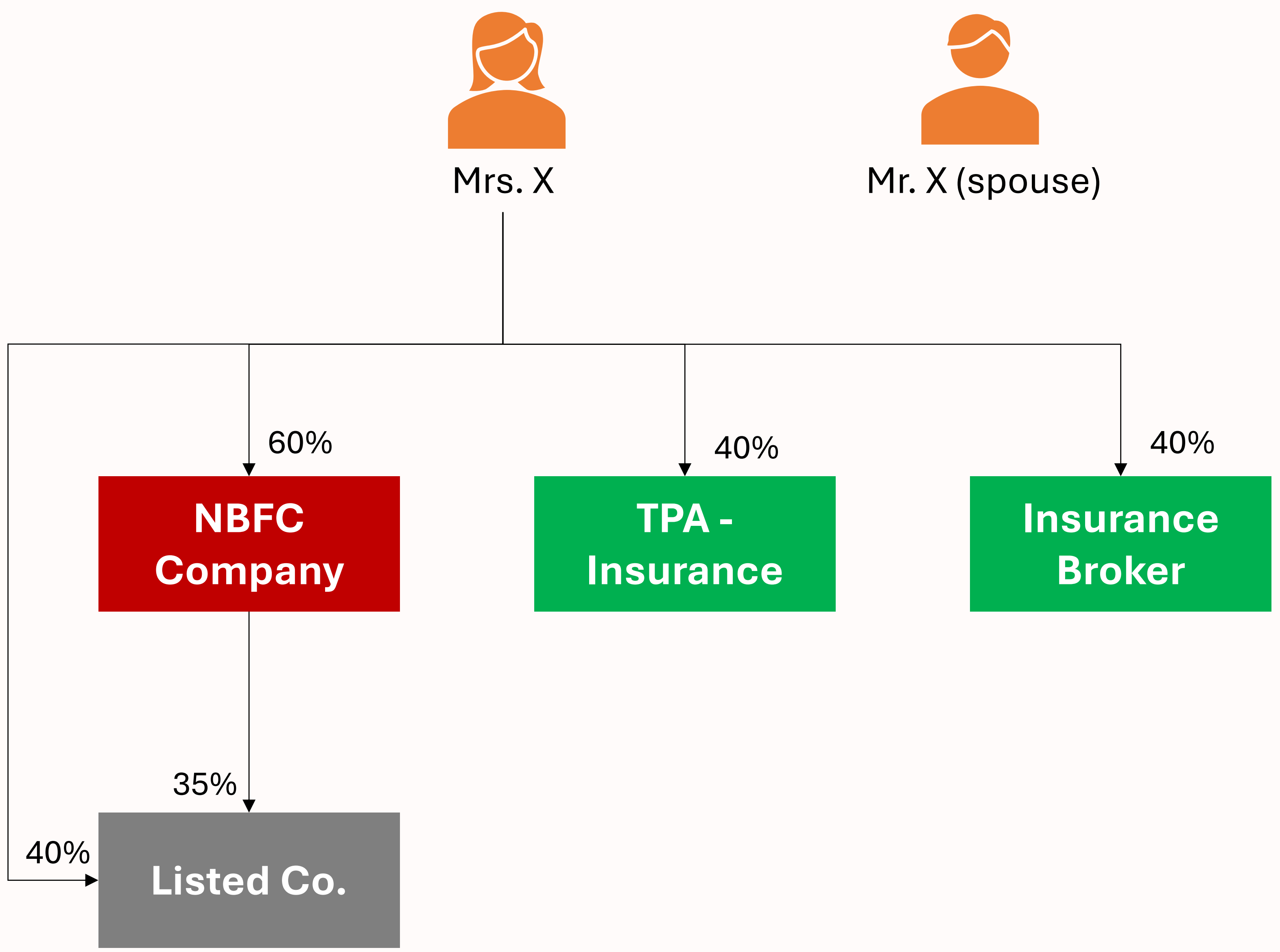
Facts:

- Private Trust set-up in India for benefit of non-resident beneficiaries possible?

Key Considerations:

- FEMA implications on settlement of assets into the Trust
- FEMA implications on distributions made by the Trust

4. A gift, the regulator must approve!



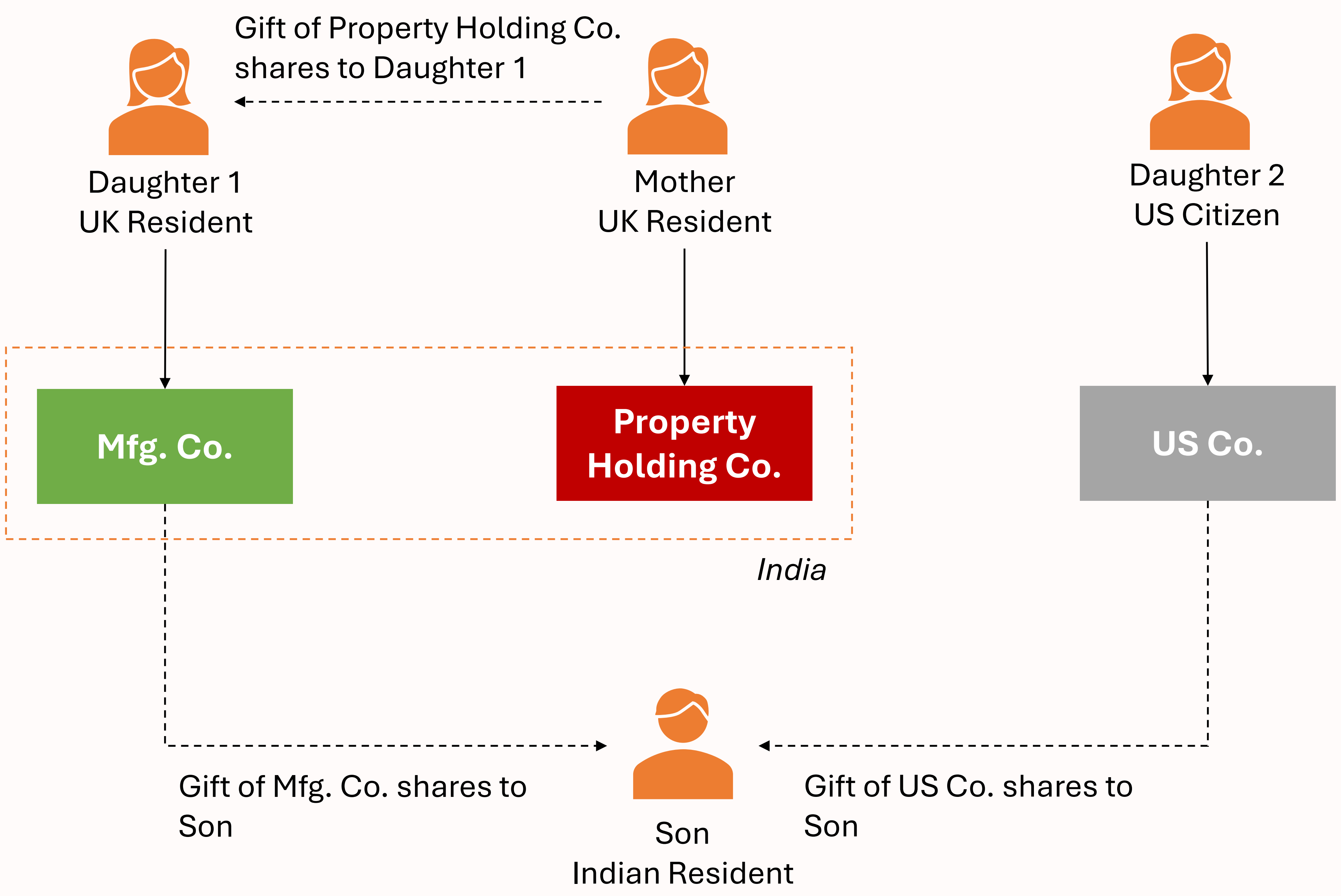
Facts:

- Mrs. X to contemplates gifting of shares to her spouse: 35% of the NBFC, 30% of listed company, 10% of the TPA and 15% of the Insurance broker

Key Considerations:

- Trigger of NBFC regulations on gift of shares of an NBFC entity
- Trigger of SEBI Takeover Code on gift of shares of NBFC
- Trigger of SEBI Takeover Code on gift of shares of Listed Company
- Trigger of regulatory approval under applicable insurance regulations on gift of shares of insurance companies

5. Gifts Beyond Borders



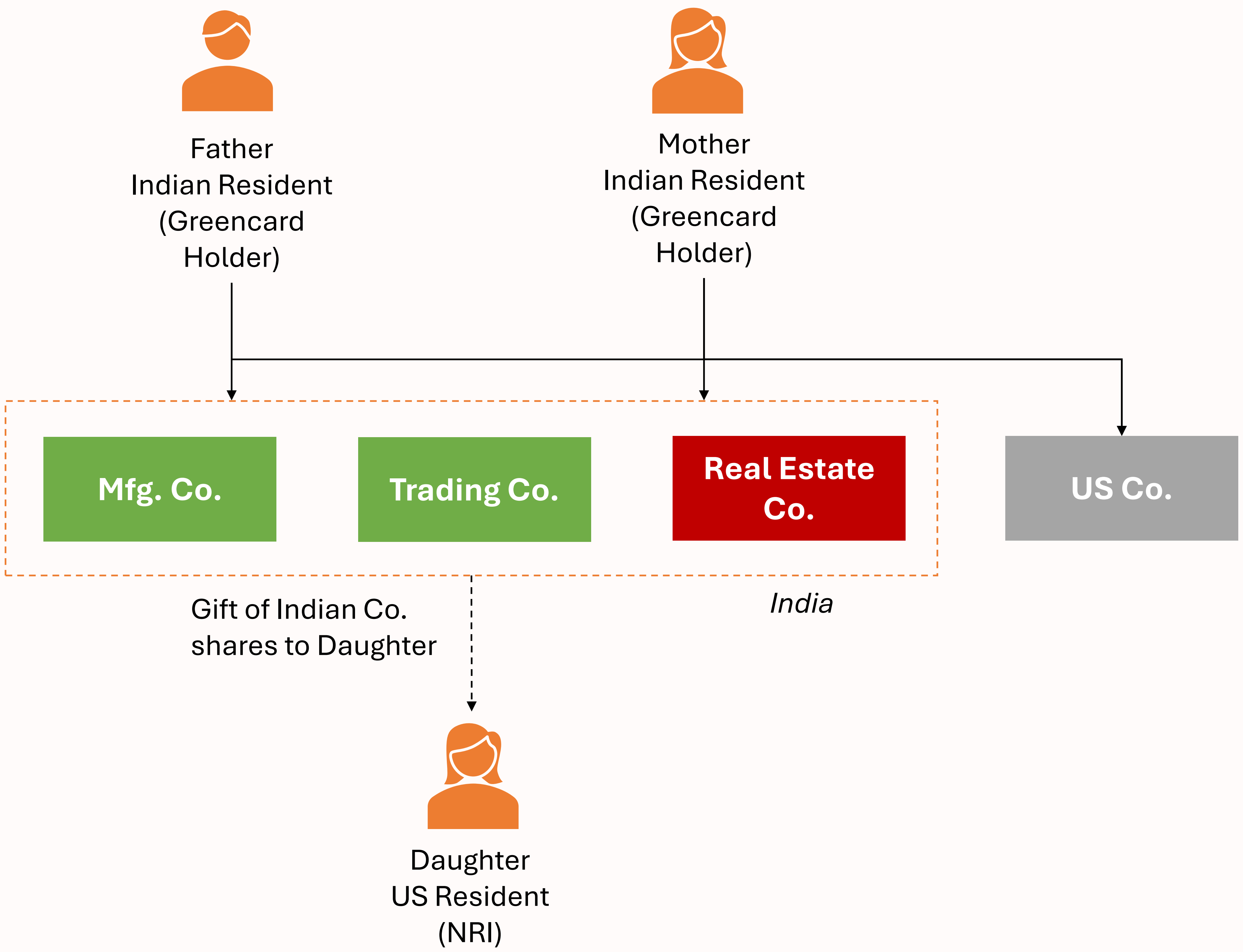
Facts

- Son (Indian resident) to receive gift of shares of US Co. and Indian Mfg. Co. from Daughter 1 and Daughter 2 respectively
- Mother to gift shares held by her in Indian Property Holding Company to Daughter 1:
  - Scenario 1: Mother is a UK resident
  - Scenario 2: Mother is an Indian resident

Key Considerations

- UK tax implications
- US tax implications
- Indian tax implications
- FEMA Implications
- Disclosure requirements applicable under FCRA

6. Wealth Succession across borders



Facts

- Father & Mother intends to eventually shift to US
- Father & Mother intend to gift shares held by them in Indian & US Company to Daughter
- Whether timing and place of gifting is pertinent for efficient planning?

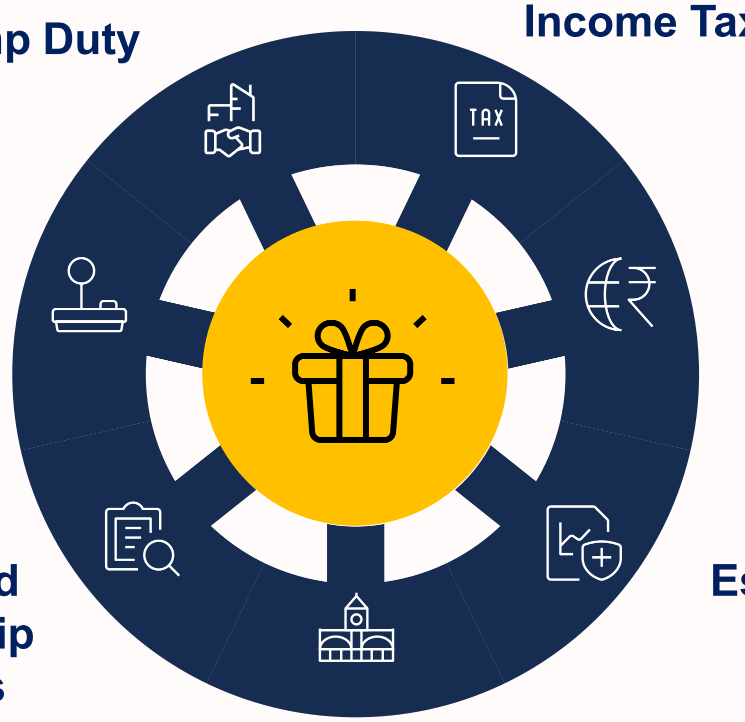
Key Considerations

- FEMA Implications
- Indian tax implications
- US tax implications

Inheritance

Key Considerations

Key considerations in Inheritance



Stamp Duty

Stamp Duty Cost on receipt of assets upon succession

Income Tax

Income Tax implications in India and overseas

FEMA

FEMA restrictions and limits where non-residents are involved

Estate Duty

Estate Duty planning in overseas jurisdictions

Succession Laws

How the assets would devolve if a person dies intestate

Forced Heirship Rules

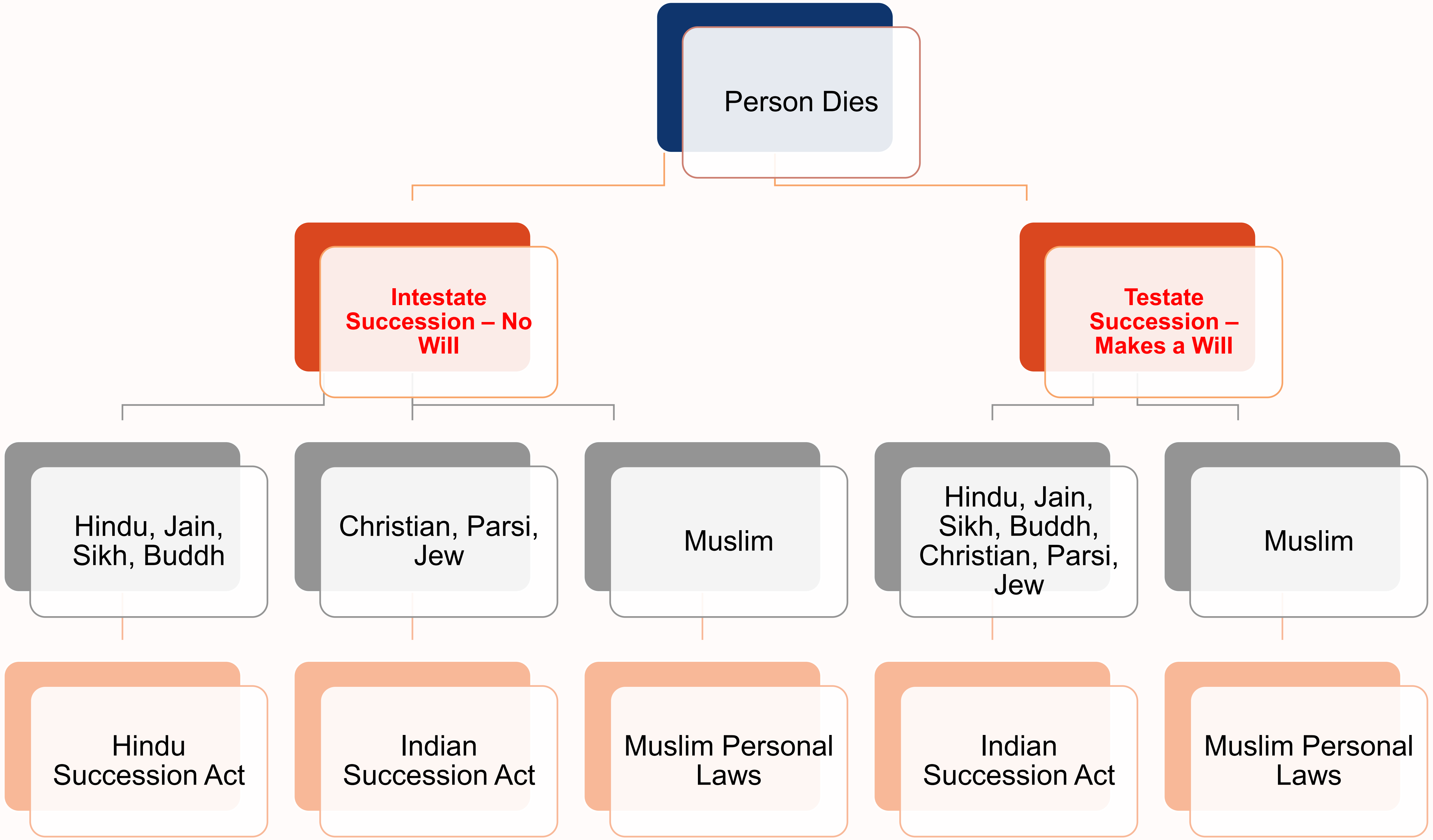
When law decides your heirs

Other Considerations

Obtaining of Probates, Letters of Administration etc.

Intestate vs. Testate

- *Overview*



If a person dies without making a valid Will –
Succession pattern is decided as per the law and not by his wish

Intestate Succession

- Hindu Male

A — FIRSTLY – CLASS I HEIRS

- Mother, Widow, Children, Children of pre-deceased Children, Widowed DILs
- Mother, Widow and Children get 1 share each

B — SECONDLY – IF NO CLASS I – THEN CLASS II HEIRS

- Specific persons prescribed under Class II and in the prescribed chronology
- For e.g., Father, Grand Daughter's children, Daughter's Grandchildren, Siblings, Grandparents, Parents' siblings, etc. in a prescribed chronology

C — THIRDLY – IF NO CLASS II – THEN AGNATES

- Related wholly thorough males – E.g. Father's Brother's Daughter

D — LASTLY – UPON COGNATES

Related not wholly thorough males – e.g., Mother's Brother's Daughter

Intestate Succession

- *Hindu Female*

SECONDLY
Husband's Heirs (Class I –> Class II –> Agnates –> Cognates)

FOURTHLY
Her Father's Heirs (As per Father's Will / Intestate)

A

B

C

D

E

FIRSTLY
Children, Children of pre-deceased Children, Husband – Equal Share

THIRDLY
Her Parents

LASTLY
Her Mother's Heirs

Will

- *Key Aspects*

What is a Will?

A Will means a **legal declaration** of the intention of the person with respect to **distribution of his/ her property** desired to take effect **after his/ her death**

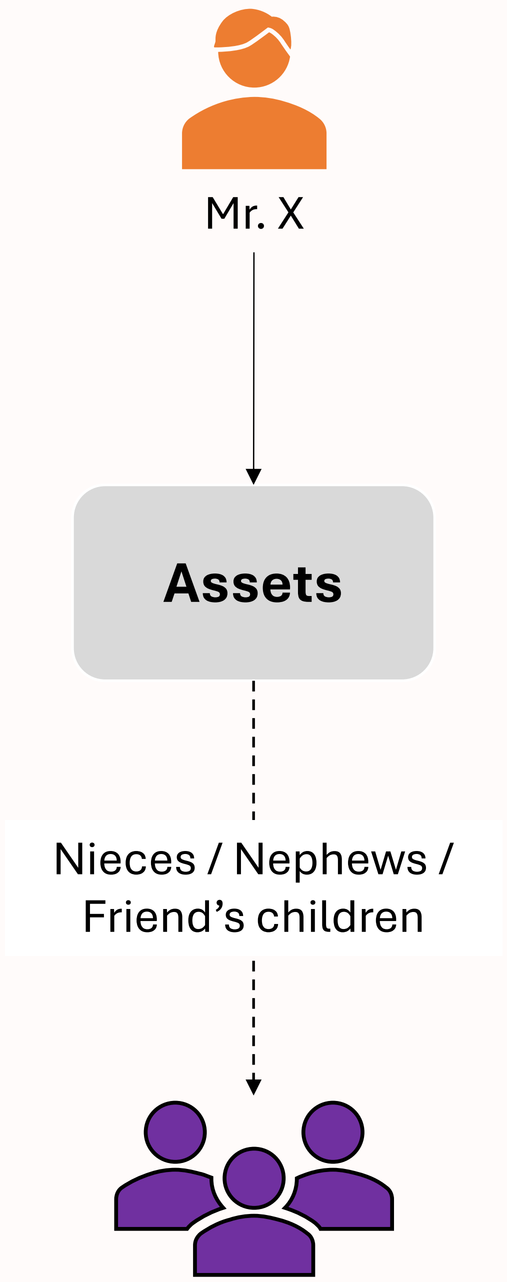
Key Terms

- Testator - person who makes will
- Beneficiary/ Legatee - person who receives property under will
- Executor - who implement the will
- Bequest - Act of giving property
- Codicil - contains amendment in a will
- Probate – Court’s approval
- Life-interest beneficiary

Key Aspects

- Effective only after Testator’s death
- No limit on no. of revisions to a will
- Major person – of sound mind
- Executor to be identified
- “**Arm-chair Construction**” of a Will
  - ✓ All assets, Executors, Witnesses, Date, Signature, Notarization and / or Registration – stamp paper not must
- Nomination vs. Will – Will prevails

7. Succession for non-relatives



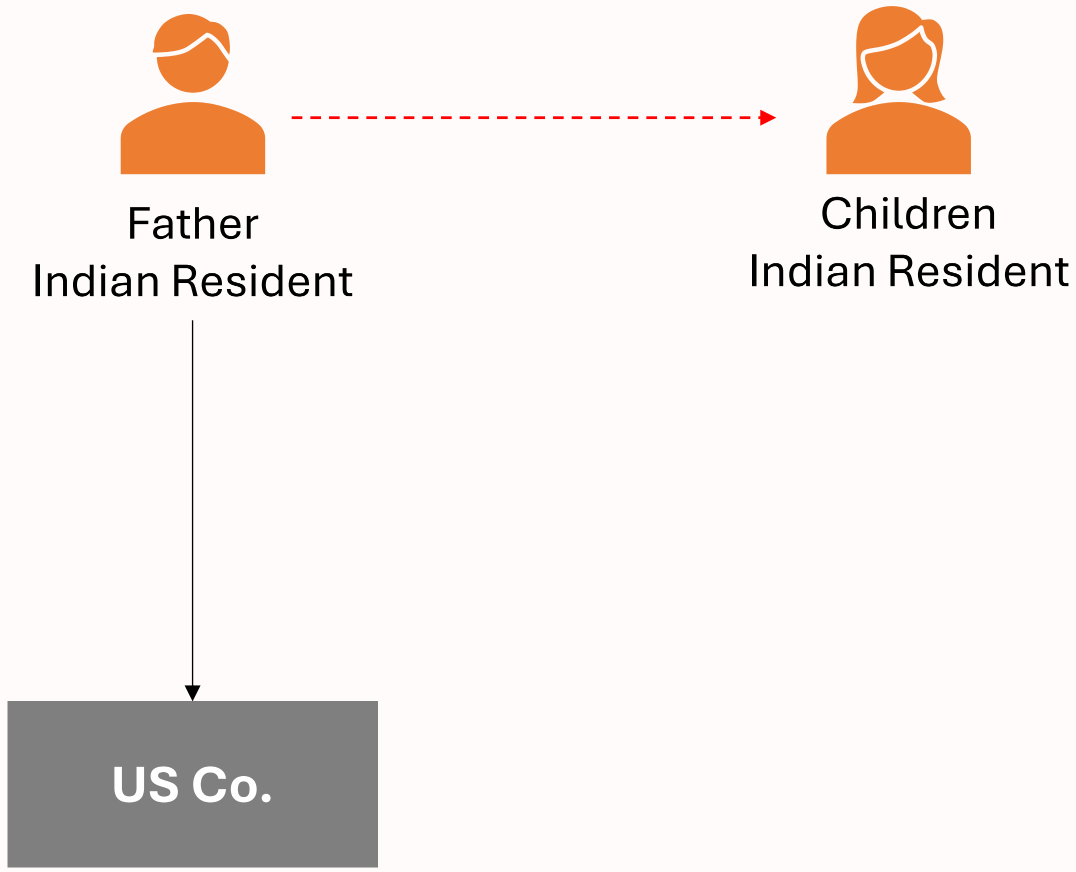
Facts

- At eighty, with no spouse / children and his health failing, Mr. X wants his entire Indian estate to reach his nieces and nephews children (some living abroad), and the children of his friends
- His estate comprises of Immovable properties in India, Shares of Indian companies, and Jewellery, Portfolio investments, and cash
- He is considering an outright gift, a private trust and a Will

Key Considerations

- Income Tax implications on such transfer
- Stamp Duty implications on such transfer
- FEMA implications on such transfer

8. Succession of US wealth



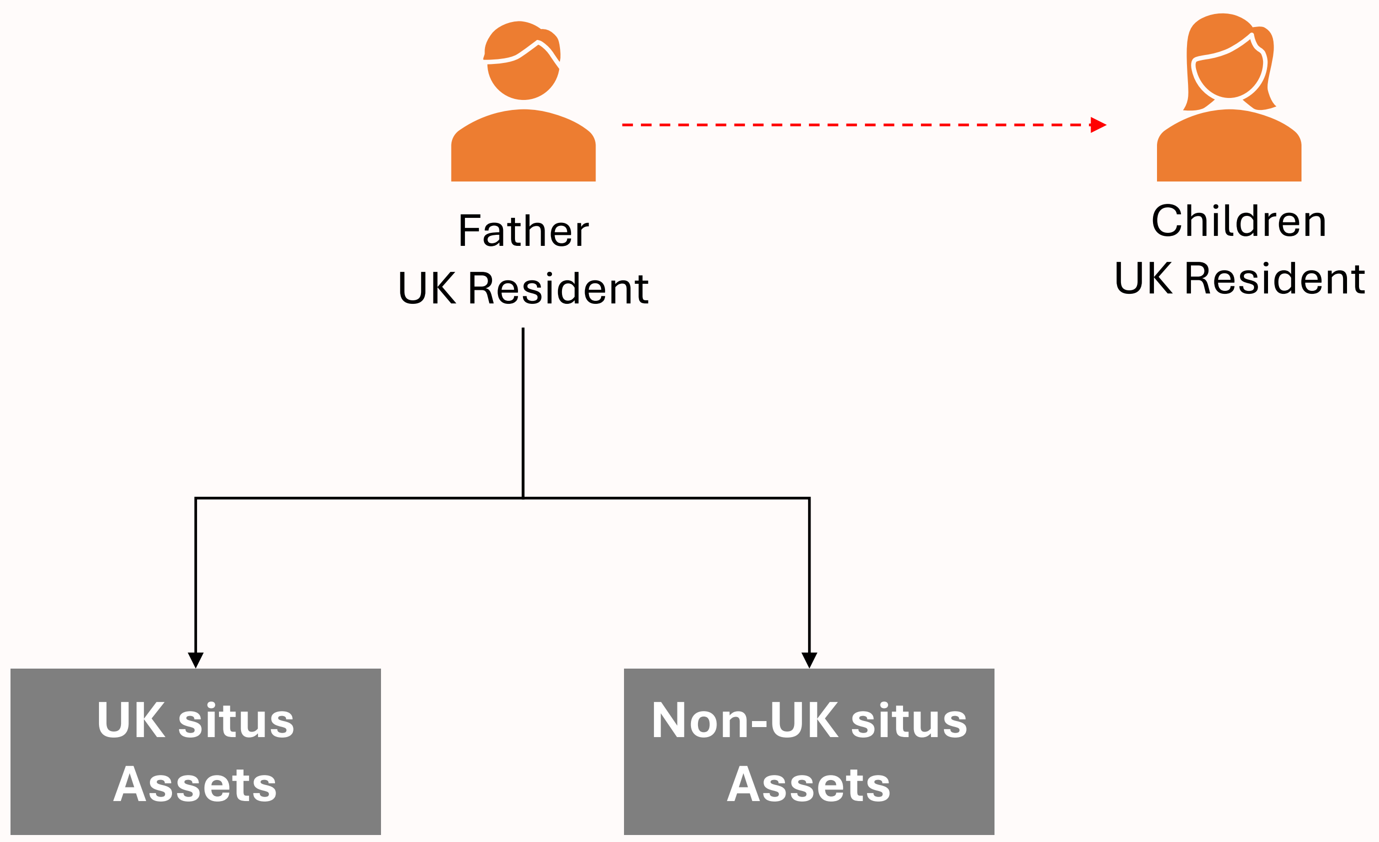
Facts

- Father wishes to transfer assets held by him to his children by way of will
- Assets comprise of shares of US Company

Key Considerations

- US estate tax implications on transfer of assets to children
- FEMA Implications on receipt of shares
- Disclosure of Foreign Assets in Income Tax Return

9. UK inheritance tax issues



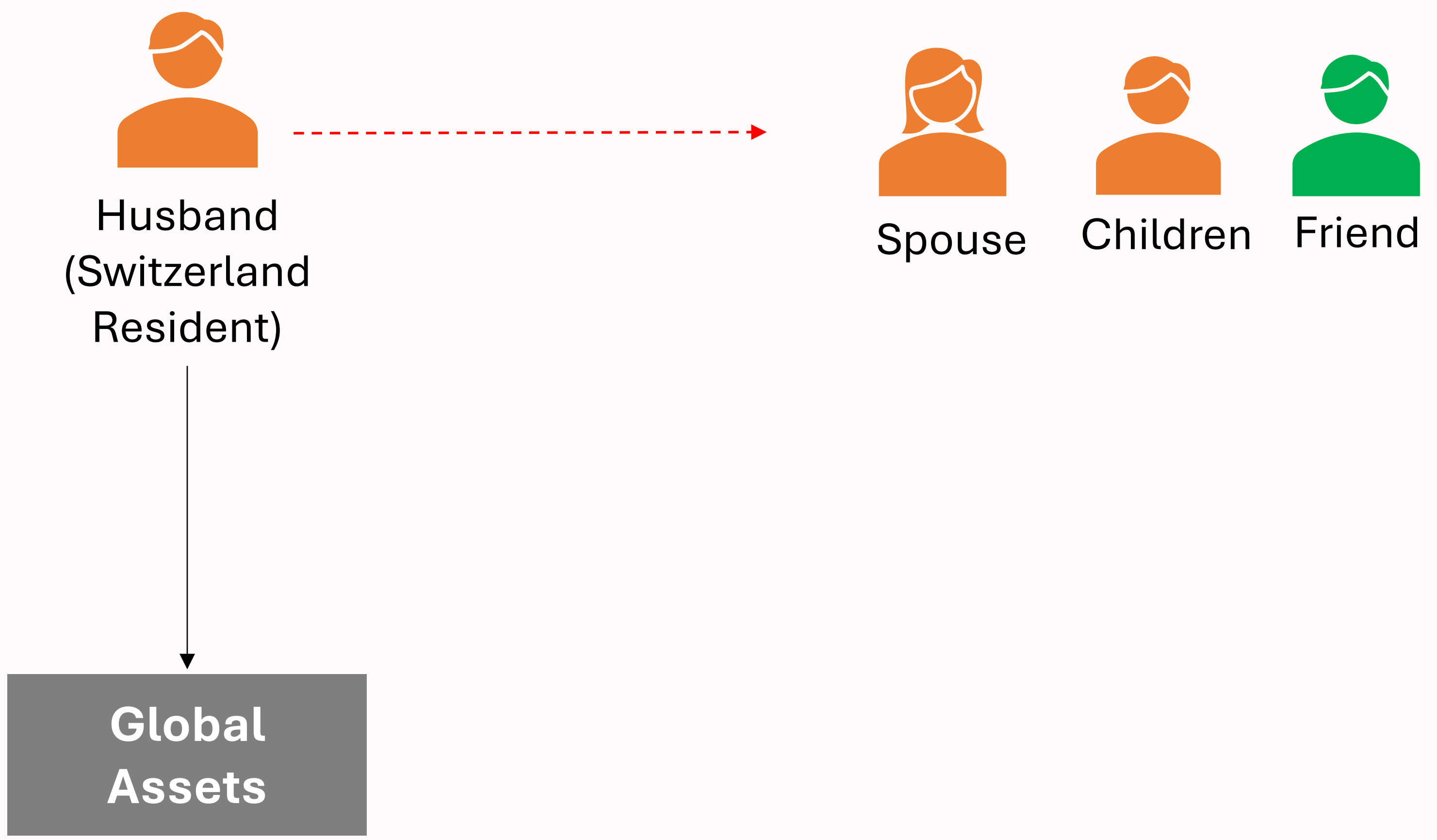
Facts

- Father wishes to transfer assets held by him to his children by way of will
- Assets comprise of both UK Assets and non-UK Assets

Key Considerations

- UK inheritance tax implications on transfer of assets to children

10. When the Law Decides Who Inherits



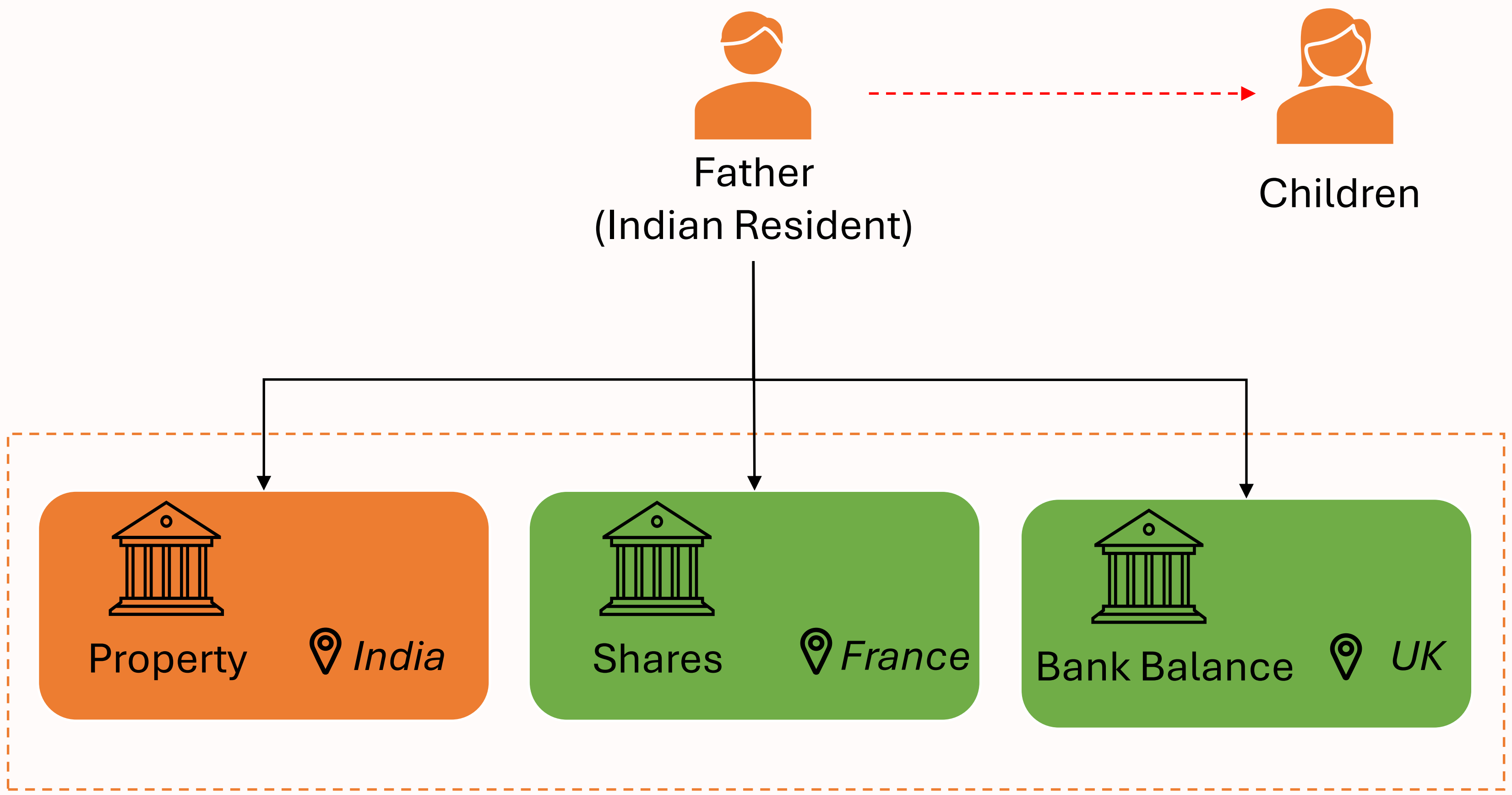
Facts

- Husband (Switzerland resident) intends to transfer his assets through a Will
- The proposed beneficiaries include his spouse, children and a friend
- The estate comprises assets located in Switzerland as well as other jurisdictions
- Can the husband bequeath the assets as per his wishes?

Key Considerations

- Forced Heirship Rule implications on transfer of assets

11. Designing Your Global Will Strategy



Facts

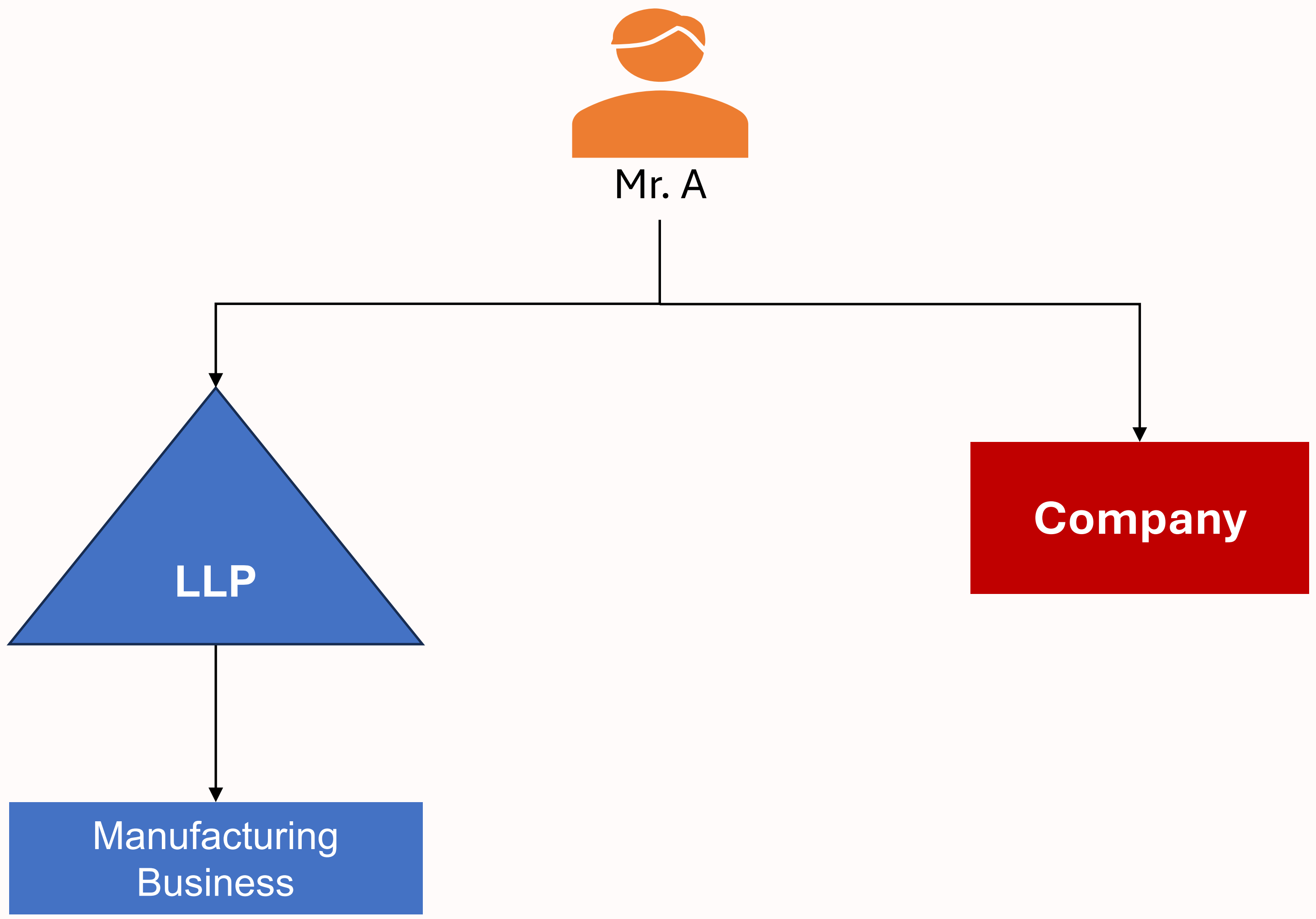
- Father (an Indian Resident) intends to transfer his assets to his children through a Will
- The estate comprises assets located across multiple jurisdictions, such as India, France and the UK
- He is evaluating whether to execute a single global Will covering all assets or separate Will for each jurisdiction

Key Considerations

- Whether to have a single will for his entire wealth or separate wills for each jurisdiction

Corporatization of Business

12. Corporatization of Business



Facts

- Mr. A is conducting business through an LLP
- Mr. A wishes to corporatize the business to go for listing in future

Key Considerations

- Corporatization of the business :
  - Succession, or Conversion?

Aditya Hans, Partner, Dhruva Advisors

- Aditya Hans is a Partner in Dhruva Advisors, leading the firm's offices in the Southern and Eastern Region of India. Prior to this, he was a Partner in KPMG and has worked in competing firms like PwC & EY over his 20 years of consulting career.
- He has substantial experience in handling succession planning assignments, having worked closely with numerous Indian families to structure family offices, family charters/ constitutions, family settlements, business and non-business trusts, and successors/ beneficiaries being non-residents.
- He has expertise in advising listed and unlisted clients on a wide range of transactions, including tax due diligence, strategic advice to buy-side on acquisition structuring (also acquiring companies referred to NCLT under IBC proceedings), strategic advice to sell side for sell-off/hive-offs, business consolidations (i.e. reorganisation of group structure/ promoter family shareholding), demergers, spin offs, conversion to corporate entities, cash repatriation, Joint Ventures, and Private Equity fund raises. He also has extensive experience advising clients on fund structures, exchange control regulations, non-banking regulations and GIFT city. His deep tax and regulatory knowledge, coupled with strong financial and commercial acumen, adds significant value to any transaction.
- His areas of expertise also encompass international / cross-border tax structuring including, BEPS 2.0 (Pillar One and Two), Transfer Pricing (TP audit defense and litigation, APA, MAP), Supply Chain Optimisation (tax), Permanent Establishment (PE) attribution, inbound & outbound entry/exit & profit /cash repatriation strategies for Indian and overseas jurisdictions.

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