From: Richard Joslin <[redacted]>
To: Jeffrey Epstein <[redacted]>
Subject: FW: Gift of art to Private Foundation
Date: Tue, 29 Apr 2014 14:31:35 +0000
Attachments: Northern_Trust_2013-Making_Charitable_Gifts_of_Art.pdf

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I thought you made it clear that income tax was my area.......

From: Ada Clapp
Sent: Tuesday, April 29, 2014 9:28 AM
To: Jeffrey Epstein; Lawrence Delson ([redacted]); Eileen Alexanderson; Richard Joslin; Richard D'Agostino
Subject: Gift of art to Private Foundation

Further to our discussion yesterday of Leon making charitable gifts of art to a private foundation, please see the attached article by Northern Trust. It contains a good overview of the requirements for receiving a fair market value charitable deduction for gifts of art to a private operating foundation (while Leon could gift art to a private non-operating foundation, his charitable deduction would be limited to cost basis). These requirements include that:

- The art must constitute capital gain property (e.g., appreciated art held for more than 1 year);
- The art must be used by the recipient organization in a way that relates to its charitable mission (otherwise deduction is limited to cost basis)-the "related use test"; and
- The recipient organization cannot sell the donated work of art for three years after the gift (this fails the related use test) unless the donee organization certifies that:
    - such sale was substantially related to its exempt purpose or
    - the done organization intended to use the work for a related use but that related use became impossible of infeasible.

As the Northern piece is from last July, it is possible (but unlikely) that some of these rules were update. If we are moving forward with the plan we discussed yesterday, does it make sense to have a follow up meeting to discuss additional details such as:

(i) What the Foundation's specific charitable purpose will be and how the use of the donated art will be related to that purpose—as well as what we need to do to achieve this purpose (create a museum, find exhibition space, create a lending program, etc.);

(ii) How it will qualify as a private operating foundation (how it will satisfy the income test and either the assets test, endowment test or support test).

(iii) Where the art will be stored after it is gifted to the foundation (it cannot remain on Leon's walls), (ii) as a "disqualified person" under the private foundation rules, what power and decision making authority can Leon have over the use of the art?

Please let me know if you would like my involvement with this project.

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