

From: Jeffrey Epstein <jeevacation@gmail.com>

To: Erika Kellerhals <[REDACTED]>

Subject: Re: Year End Gift Planning/ Source of income issues

Date: Sun, 02 Dec 2012 19:08:21 +0000

Inline-Images: 7B8B96A5-A17A-4855-9256-43BDEEA09109[190].png

what if the license is sold outright, no royalties, and the sale occurs in the v.i.?

On Sun, Dec 2, 2012 at 6:21 PM, Erika Kellerhals <[REDACTED]> wrote:

Here are the thoughts on JEE's gift to a trust to maximize the use of the exemption:

1. JEE establishes a trust for the benefit of third parties (we can use the existing agreement that was drafted) and makes a gift to it of cash (\$120,000).
2. Trustee of trust (which cannot be JEE) forms an LLC and contributes the cash to the LLC. (Is there an existing LLC that we can use – or do we have to form a new one?)
3. JEE contribute a note to the LLC for \$5,000,000 in exchange for a 97.66 membership interest in the LLC.
4. JEE gives his interest in the LLC to the trust – but is still required to pay on the note.

Outstanding docs relative to this are the LLC documents, the trust agreement (which should only have to be amended), the operating agreement for the llc and the note itself. I assume that JEE wants the ability to pay off the note with property rather than cash?

Source of income/ licensing issues:

I raised a concern about some of the income to be derived by STC – if the income was royalty fees from licensing the product. The concern arises where it is licensed to a United States user. Royalties are generally sourced to where the product is used. So to the extent it is sourced to a US company and used in the US - it would be US source income - which is not eligible for benefits.

This is not the case with non-US based users because it is possible for non-US source income to be effectively connected to the USVI in certain cases.

Specifically, Treasury Regulation 1.937-3 provides that the principles of Code Section 864(c)(4) will apply for purposes of determining whether income from sources without the relevant possession is effectively connected with the conduct of a trade or business in the relevant possession.

Code Section 864(c)(4) provides in pertinent part (and as mirrored to the USVI) that "income, gain, or loss from sources without the United States [Virgin Islands] shall be treated as effectively connected with the conduct of a trade or business within the United States [Virgin Islands] by a ... foreign corporation if such person has an office or other fixed place of business within the United States [Virgin Islands] to which such income, gain, or loss is attributable and such income, gain, or loss:

(i) consists of rents or royalties for the use of or for the privilege of using intangible property described in Section 862(a)(4) derived in the active conduct of such trade or business;

Section 862(a)(4) provides for rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties.

So to the extent you license to non-US persons you should be fine in terms of eligible income.

Darren - I am free tomorrow afternoon if you would like to discuss. I have time at 3pm AST & 4pm AST.

Erika A. Kellerhals



Partner
Kellerhals Ferguson Fletcher Kroblin LLP
[Redacted]
St. Thomas, U.S. Virgin Islands 00802

Office: [Redacted]
Fax: [Redacted]

Notice: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please do not print, copy, re-transmit, disseminate, or otherwise use this information. Also, please indicate to the sender that you have received this e-mail in error, and delete the copy you received. Thank you.

Circular 230: To ensure compliance with the requirements imposed by the IRS, we inform you that any tax advice contained in our communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any tax penalty or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

--

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Jeffrey Epstein. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this

communication in error, please notify us immediately by return e-mail or by e-mail to jeevacation@gmail.com, and destroy this communication and all copies thereof, including all attachments. copyright -all rights reserved