
From: Heather Gray <HGray@elysllc.com>
Sent: Friday, June 3, 2016 7:03 PM
To: jeffrey E.
Subject: RE:

Hi Jeffrey,

As you will recall, we used this same exchange agent last year on the Calder 1031. At the time, we discussed the merits of using a gallery versus a commercial exchange agent and my recommendation to Leon was to use a gallery. I felt that there were advantages to using a commercial exchange agent instead of a gallery on the 1031 side (e.g., less likelihood of a breach of confidentiality, IRS familiarity with CDEC in the event of an audit, security of funds), but that a commercial exchange agent gave us less comfort on the sales tax side. Leon did not want to use a gallery because he was concerned about confidentiality and he did not want to have to ask a gallery that he did not do much business with to act as exchange agent.

When Leon first discussed the exchange for the Cezannes with me a few weeks ago, I asked him if he wanted to use the same exchange agent as last year, or if he wanted to use a gallery. I said that a gallery carried little to no risk on the sales tax side, but I reminded him that he had not wanted to use a gallery last year for the Calder because of confidentiality reasons. He said to use the same exchange agent as before, which made sense to me because he was extremely concerned about confidentiality with the purchase of the Cezannes.

I will find out about sales tax audits and will let you know. The exchange agent has had a New York resale certificate since 2014 and has been engaged in art transactions like this since then, but I do not believe they have been audited. I will check, though, and I will also ask the Herrick lawyer if any of his clients who have done similar deals have been audited.

Best,

Heather

From: jeffrey E. [mailto:jeevacation@gmail.com]
Sent: Friday, June 03, 2016 11:56 AM
To: Heather Gray [REDACTED]
Subject:

heather leon seems to not recall the issue of finding an alternative to the exchange agents resale certificate. he didnt remember you suggesting a gallery instead. you mentioned that he did not want to get another gallery involved. ? has any of the transactions been audited using this method , which even i find aggressive.

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please note

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