
From: Halperin, Alan S <[REDACTED]>
Sent: Wednesday, April 8, 2015 1:13 PM
To: Heather Gray
Cc: Ada Clapp; Richard Joslin; jeffrey E.; Brad Wechsler
Subject: RE: IRS Focus's on Corporate-Owned Art Used by Patriarch and Matriarch

Sure. I will circulate=later this morning. Best. Alan

Alan S. Halperin</=pan> | Partner
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas | New York, NY 10019-6064
([REDACTED]
<[REDACTED]>

From: Heather Gray [REDACTED]
Sent: Wednesday, April 08, 2015 9:04 AM
To: Halperin, Alan S
Cc: Ada Clapp; Richard Joslin; jeffrey E.; Brad Wechsler
Subject: RE: IRS Focus's on Corporate-Owned Art Used by Patriarch an= Matriarch

Hi Alan,

Thanks for sending thi=. I read another blurb about this case recently. Would it be possibl= to get a copy of the complaint?

Best,

Heather

From: Halperin, Alan S [REDACTED]
Sent: Wednesday, April 08, 2015 8:56 AM
To: Ada Clapp; Heather Gray; Richard Joslin; jeffrey E.
Subject: IRS Focus's on Corporate-Owned Art Used by Patriarch and Ma=riarch

Please see below. This case is at an early stage: the IRS has asserted tax liability and the taxpayer is seeking a refund. The IRS has not responded to the complaint. I will track the matter.

Estate Taxes

IRS Takes Hard Line Against Media Mogul's Use of \$140M Company-Owned Art Collection

BNA Snapshot</=>

Development: Widow of media mogul Joe Allbritton seeks \$40.7 million refund for taxes paid on artwork she says IRS mischaracterized as corporate-owned assets distributed by family holding company.

More: IRS says Allbritton's should have paid almost \$65 million in rent to company for four years of viewing art.

What's Next: Government's answer due May 20.

By Erin McManus <<http://news.bna.com/dtln/DTLNWB/emcmanus@bna.com>> Diane Freda <<mailto:dfreda@bna.com>>

April 7 — Media mogul Joe L. Allbritton's widow is seeking a \$40.7 million refund from the IRS for taxes she says it wrongly assessed on art allegedly distributed to the couple by Allbritton's company, Perpetual Corp.

The Internal Revenue Service says the Allbrittons treated the \$140 million art collection as their own and should be taxed that way. The IRS also says that if the couple had been paying rent to the corporation to view the paintings—which included works from Pablo Picasso and Vincent van Gogh—the cost should have been almost \$65 million.

"It's unusual to see the IRS claiming such a hefty amount in taxes owed when no actual money has changed hands," said Craig Wisnom, an estate planning attorney with Bogutz & Gordon in Tucson, Ariz.

In a complaint filed Jan. 30 in the U.S. District Court for the Southern District of Texas, Barbara B. Allbritton said the IRS erroneously determined that, in 2005, Perpetual distributed approximately 46 works of art to the Allbrittons (Allbritton v. United States <http://www.bloomberglaw.com/public/document/Allbritton_et_al_v_UNI=ED_STATES_OF_AMERICA_Docket_No_415_cv00275_, S.D. Tex., No. 4:15-cv-00275, complaint filed, 1/30/15).

The government's answer is due May 20.

Repayment for Debts

The complaint said that many of the works of art purportedly distributed to the Allbrittons were in fact conveyed from Joe Allbritton to Perpetual in transactions in 1999 and 2001 as repayment for valid debts owed by Joe to the company. Joe retained a 5 percent ownership in the art.

Perpetual operates as a holding company that through its subsidiaries, Allbritton Communications Co. and ALLNEWSCO Inc., operates cable and television broadcasting stations. Perpetual, during the years in question, was owned by the Allbritton family or trusts for their benefit.

According to the complaint, Perpetual "has a long history, dating back to before 1958, of investing in appreciating assets such as art and real estate."

Separate Entity Treatment

The Allbrittons denied that there had been a “constructive property distribution” of the artwork. And, if the IRS is successful in making that claim, the Allbrittons said they are entitled to a refund of taxes and interest the IRS has collected or the “fair rental value of the artwork.”

If Joe and Barbara Allbritton “somehow became the owners through dividend” of the art and antiques, then Barbara “couldn’t owe rent on property that she and her husband owned, the lawsuit contended.

However, when individuals such as the Allbrittons own or control a corporation, the IRS will treat the corporation like a separate legal entity, Wisnom said.

“The IRS says that taxpayers don’t get the benefit of a separate legal entity if they don’t treat it like a separate entity,” Wisnom told Bloomberg BNA April 6.

Enjoying Art for Free

The artwork in question included paintings by Paul Cezanne, Marc Chagall, Edgar Degas, Paul Gauguin, Winslow Homer, Edouard Manet, Claude Monet, Pablo Picasso, Camille Pissarro, Pierre-Auguste Renoir and Vincent van Gogh.

“They assessed tax against the Allbrittons for having enjoyed the artwork without paying the corporation.”

Craig Wisnom, Bogutz & Gordon

The works of art were kept in various residential properties owned by Perpetual and used by the Allbrittons.

“In this case, the IRS is assessing tax because they say the Allbrittons treated the valuable artwork like it was their own. They assessed tax against the Allbrittons for having enjoyed the artwork without paying the corporation,” Wisnom said.

The lesson for taxpayers is that their use of “enjoyable” items like artwork, jewelry, and real estate needs to be consistent with legal ownership, he said.

Rent on Residences

The complaint also said the Allbrittons paid fair-market value rental rates for the properties located in Washington, D.C., New York City, the Virginia Blue Ridge, and La Jolla, Calif. The couple’s primary residence, owned by them and not Perpetual, was in Houston.

The total deficiency amount included \$2.84 million by which the IRS increased the amount of rent that it said the Allbrittons should have paid for the four corporate residences.

Alan S. Halperin | Partner

Paul, Weiss, Rifkind, Wharton & Garrison LLP

1285 Avenue of the Americas | New York, NY 10019-6064

(212) 373-3313 (Direct Phone) | (212) 492-0313 (Direct Fax) ahalperin@paulweiss.com

<mailto:ahalperin@paulweiss.com> | www.paulweiss.com

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