

Connie T. Eyster

From: John DeBruyn [jdebruyn@debruyn.com]
Sent: Monday, January 05, 2009 10:05 AM
To: Gene Zuspahn; Atlass, Theodore B.; Sutton, Raymond; James R. Walker; Richard Hopper; Douglas M. Cain; Richard Robinson; Barbara Ann Dalvano; Carl Stevens; Shelly D. Merritt; Connie T. Eyster; Constance Wood; Steve Brainerd; Bruce E. Deacon
Cc: Robert Keatinge; Allen Sparkman Esq. (E-mail); Anthony van Westrum (E-mail); Keith Whitelaw (E-mail); Sarah Steinbeck (E-mail); Michael Valdez (E-mail)
Subject: Community property for beneficial interest in a business trust
Attachments: community_property_irs_rp-02-69.pdf; article_81_to_end_v507b.pdf

Hi Gene, Ted, Ray, Jim, Dick, Doug, Rich, Barbara, Carl, Shelly, Connie, Connie, Steve and Bruce :

One of the intended uses of an investment trust under a Colorado business trust statute was as a joint entity for husbands and wives to hold title to property that would be treated as a tenancy in common and not a partnership for income tax reporting purposes.

The notion was to have the property involved classified as tenancy in common rather than a partnership so that for tax reporting purposes payors of dividends and interest could report the income to the spouse under the social security number of one of them.

As I was working this through the applicable IRS procedures, instructions and forms it dawned on me that there was a better way to accomplish this under Revenue Procedure 2002-69 (copy attached) which provides for an unincorporated entity to be treated as an ignored entity if the entity is held by husband and wife as community property.

My thought was to add the following provision to the current proposed draft (copy attached):

7-81-107 Beneficial interests -- distributions -- transfers -- creditors -- additional provisions.

(5) Optional provisions relating to beneficial interests and owners. To the extent provided by the governing instruments of an entity:

(f)(II) A beneficial interest may be acquired as community property under the laws of this state by a husband and wife and vested in them as such subject to article 20 of title 15, C.R.S., "Uniform Disposition of Community Property Rights at Death Act" for purposes of sections 1-20-104 to 15-20-109, C,R,S,

Your suggestions and comments would be appreciated.

Thanks,

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