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PUERTO RICO

No Escape from Taxes on Pre-Residency Property Appreciation

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Bona fide residents of Puerto Rico are generally allowed to exclude Puerto Rican-source income from their U.S. taxable income.[1] In addition, under Puerto Rico Act 60, residents of Puerto Rico are exempt from Puerto Rican income tax on capital gains and certain other income. Thus, bona fide residents of Puerto Rico who recognize Puerto Rican-source capital gains can hit the jackpot of paying no income tax anywhere in the world on their capital gains. The source of the income is the key to hitting this jackpot.

Income from the sale of personal property is generally sourced on the basis of the residence of the seller.[2] Under this general rule, income from the sale of personal property by a bona fide resident of Puerto Rico (a "BFRPR") would generally be Puerto Rican-sourced income.

However, special rules apply to gains from dispositions of certain investment-type property owned prior to becoming a BFRPR ("Tainted Property").[3] Under these special rules, gains from dispositions of Tainted Property within 10 years after becoming a BFRPR are treated as non-Puerto Rican-source income.[4] The purpose of these Tainted Property rules is to prevent avoidance of U.S. tax on appreciated property by acquiring residence in Puerto Rico prior to its disposition.[5]

Some advisors argue that the Tainted Property rules do not apply to appreciated property held by a partnership. Their argument is that ownership attribution rules do not apply to Tainted Property. Conveniently, this interpretation would allow a taxpayer who owns appreciated property indirectly through a partnership, to move to Puerto Rico, have the partnership sell the appreciated property, and avoid all U.S. and Puerto Rican tax on the gain. If this sounds too good to be true, then the taxpayer "should recognize that he proceeds at his own peril."[6]

As described below, the ownership attribution rules explicitly apply to Tainted Property. Thus, property owned by a partnership prior to the partner becoming a BFRPR is treated as owned by the partner prior to becoming a BFRPR.

Before discussing the Tainted Property rules with respect to partnerships, it is helpful to first explain how an individual who becomes a BFRPR while directly owning Tainted Property may elect to split the source of the gain. If no such election is made, none of the gain on the disposition of the Tainted Property is Puerto Rican-source

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income, and none of the gain can be excluded from U.S. taxable income.[7]

SPLIT SOURCING FOR MARKETABLE SECURITIES – MARK-TO-MARKET ALLOCATION

Marketable securities are those actively traded on an established financial market, such as stock in a publicly held corporation.[8] Gain attributable to the Puerto Rican holding period is the difference in the fair market value of the security at the beginning of the Puerto Rican holding period and the fair market value of the security when it is sold.[9] This is the gain that is treated as being from sources within Puerto Rico.

> *Example 1:* In 2023, Individual A lived in the United States and on January 1, 2023, he paid $1,000,000 to purchase 1,000 shares of stock in a U.S. corporation listed on the New York Stock Exchange. On January 1, 2024, Individual A moved to Puerto Rico and became a BFRPR. On January 1, 2024, the closing value of the 1,000 shares of stock was $3,000,000. On January 1, 2025, while still a BFRPR, Individual A sold all of the 1,000 shares of stock for $10,000,000.
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> Individual A's total gain on the sale was $9,000,000. Under the mark-to-market allocation rules, Individual A allocates $2,000,000 of the gain to his U.S. holding period ($3,000,000 - $1,000,000) and he allocates $7,000,000 of the gain to his Puerto Rican holding period ($10,000,000 - $3,000,000).

In Example 1, Individual A can exclude $7,000,000 of the gain from his U.S. taxable income. If Individual A did not make the split-sourcing election, under the Tainted Property rules (discussed further below), all of his gain would have been non-Puerto Rican-source income, and none of the gain could have been excluded from his U.S. taxable income.

SPLIT SOURCING FOR PROPERTY OTHER THAN MARKETABLE SECURITIES – TIME-BASED ALLOCATION

In the case of property other than marketable securities, the portion of gain attributable to the Puerto Rican holding period is determined by multiplying the total gain by a fraction, the numerator of which is the number of days in the Puerto Rican holding period and the denominator of which is the total number of days in the entire holding period for the property.[10]

> *Example 2:* The facts are the same as in Example 1, except that the property was *not* a marketable security. Thus, in 2023 Individual A lived in the United States and on January 1, 2023, he paid $1,000,000 to purchase 1,000 shares of stock in a privately held corporation. On January 1, 2024, he moved to Puerto Rico and became a BFRPR. On January 1, 2025, while still a BFRPR, Individual A sold all of the 1,000 shares of stock for $10,000,000.
>
> Individual A owned the shares for a total of two years. He owned the shares for one year prior to becoming a BFRPR, and he owned the shares for an additional year after becoming a BFRPR.
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> Individual A's total gain on the sale was $9,000,000. Under the time-based allocation rule, he allocates $4,500,000 of the gain to his U.S. holding period ($9,000,000 X 365 / 730) and he allocates $4,500,000 of the gain to his Puerto Rican holding period ($9,000,000 X 365 / 730).

In Example 2, Individual A is only able to exclude $4,500,000 of the gain from his U.S. taxable income. Similar to Example 1, if Individual A did not make the split-sourcing election, under the Tainted Property rules, all of his gain would have been non-Puerto Rican-source income, and none of the gain could have been excluded from his U.S. taxable income.

TAINTED PROPERTY RULES

The Tainted Property rules in Treas. Reg. §1.937-2(f)(1) provide that, if a split-sourcing election is not made, then gain will not be treated as Puerto Rico-source income when it arises from the disposition of "investment-type property" – specifically, property described in IRC §§ 731(c)(3)(C)(i) or 954(c)(1)(B) – owned by the individual before becoming a BFRPR. [11]

In effect, the Tainted Property rules apply only when all of the following conditions are met:

1. The property is investment-type property;
2. The property was owned before the individual became a BFRPR;
3. The individual is a BFRPR in the Year of Sale; and
4. The individual has been a BFRPR for less than 10 years.

When these requirements are satisfied and no split-sourcing election is made, none of the gain is treated as Puerto Rico-source income.

STOCK OWNED THROUGH A PARTNERSHIP

When an individual owns an interest in a partnership prior to becoming a BFRPR and the partnership owns an interest in stock, the individual does not directly own the shares of the stock.

> *Example 3:* On January 1, 2023, Individual A is a resident of the U.S. Individual A owns an interest in a U.S. partnership (the "Partnership"). On January 1, 2023, the Partnership purchases shares of stock (the "Shares") in a U.S. corporation listed on the New York Stock Exchange. The Shares are marketable securities. Individual A's pro rata share of the Partnership's tax basis in the Shares is $1,000,000.
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> On January 1, 2024, Individual A becomes a BFRPR. On January 1, 2024, Individual A's pro rata share of the fair market value of the Shares is $3,000,000.
>
> On January 1, 2025, the Partnership sells the Shares. Individual A's pro rata share of the proceeds is $10,000,000, and Individual A's pro rata share of the gain is $9,000,000. Individual A does not make a split-sourcing election under Treas. Reg. §1.937-2(f)(1)(vi).

Although the shares are sold by the Partnership, the source of the gain on the Shares is determined at the partner level.[12] At the time of the sale of the Shares, Individual A is a BFRPR. Thus, unless the Tainted Property rules apply, all of the Partnership gain allocable to Individual A ($9,000,000) will be Puerto Rican-source income.

The Shares are Investment-Type Property. Individual A is PR Resident in the Year of Sale, and Individual A is PR resident for less than 10 years.

To determine whether the Tainted Property rules apply, the only open question is whether the shares are owned prior to the partner becoming a BFRPR.

If this is the case, then none of Individual A's gain is Puerto Rican-source gain.

ATTRIBUTION OF SHARES

Treas. Reg. §1.937-2(j) provides that for purposes of §1.937-2 the attribution rules of IRC §318(a)(2) will apply except that 5% will be used instead of 50% in Code §318(a)(2)(C). Under IRC §318(a)(2)(A), "[s]tock owned * * * by * * * a partnership * * * shall be considered as owned proportionately by its partners * * *."

Under the IRC §318(a)(2) attribution rules, Individual A has been considered as owning his proportionate amount of the Shares since they were purchased on January 1, 2023. Thus, the Shares were considered as owned by Individual A before he became a BFRPR.

Example 3 Conclusion: In Example 3, the four requirements of the Tainted Property rules are met for Individual A:

1. The shares are investment-type property;
2. The shares are owned prior to Individual A becoming a BFRPR;
3. Individual A is a BFRPR in the Year of Sale; and
4. Individual A is a BFRPR for less than 10 years.

Since the Tainted Property rules apply to Individual A and because he did not make a split-sourcing election, none of the $9,000,000 gain flowing through the Partnership to him will be Puerto Rican-source income.

TAX-FREE TRANSFERS TO ENTITIES

The Tainted Property rules also apply to certain tax-free transfers to entities. If a BFRPR owns Tainted Property, he cannot avoid these rules by contributing the Tainted Property into an entity in a tax-free transaction and then selling the interest in the entity. If Tainted Property is contributed into an entity in a tax-free transaction, the interest in the entity itself becomes Tainted Property.[13] Thus, if no split-sourcing election is made, gain on a sale of the interest in the entity is not Puerto Rican-source income.

> *Example 4:* In 2023, while living in the U.S., Individual A purchases shares (the "Shares"). In 2024, Individual A becomes a BFRPR. In 2025, Individual A contributes the Shares to a partnership in a transaction in which no gain or loss is recognized. In 2026, Individual A sells the interest in the partnership at a gain.
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> The Shares are Tainted Property (investment-type property and owned pre-BFRPR). After the contribution into the partnership, Individual A's interest in the partnership is also Tainted Property.[14] If Individual A does not make a split-sourcing election with respect to his gain on the sale of the partnership interest, none of the gain will be Puerto Rican-source income.

Further, if Tainted Property is contributed into an entity in a tax-free transaction and the individual owns at least 10% of the entity, gain recognized by the entity itself cannot be Puerto Rican-source income.[15]

> *Example 5:* In 2023, while living in the U.S., Individual A purchases shares (the "Shares") in a foreign corporation. In 2024, Individual A becomes a BFRPR. In 2025, Individual A contributes the Shares to his wholly-owned Puerto Rican corporation in a transaction in which no gain or loss is recognized. Typically, gain is required to be recognized on contributions to foreign corporations.[16] However, no gain is required to be recognized on certain transfers of stock of a foreign corporation to another foreign corporation where a 5-year gain recognition agreement is entered into.[17] In 2032, the Puerto Rican corporation sells the Shares at a gain. The sale is more than 5 years after the contribution into the Puerto Rican corporation. Consequently, the 5-year gain recognition agreement was not triggered.[18]
>
> Because the Shares were Tainted Property to Individual A and they were transferred to the Puerto Rican corporation in a tax-free transaction, gain recognized by the Puerto Rican corporation is not Puerto Rican-source income. The source of the gain may be important for purposes of determining whether the Puerto Rican corporation meets the 80% Puerto Rican-source income test in Treas. Reg. §1.937-2(g)(1)(ii)(A).
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> The split-sourcing election would not be relevant here because Individual A did not recognize any taxable income.

ARGUMENT THAT IRC §318(A)(2) ATTRIBUTION DOES NOT APPLY

Some advisors argue that the IRC §318(a)(2) attribution rules do not apply for purposes of the Tainted Property rules. Instead, they argue that it only applies in Treas. Reg. §1.937-2 where the word "indirectly" is used. The word "indirectly" is used in (f)(1)(v), (g)(1)(i)(B), (g)(1)(iv), and (h)(1). By contrast, Tainted Property is defined in (f)(1)(ii).

Property is Tainted Property if "[t]he property was owned by the individual" before the individual became a BFRPR. These advisors argue that to apply the IRC §318(a)(2) attribution rules to Tainted Property, the Regulations would need to use the word "indirectly". For example, they argue that the regulation would need to say "[t]he property was owned, directly or indirectly, by the individual." This argument is flawed.

Treas. Reg. §1.937-2(j) explicitly provides that it applies "[f]or purposes of this section." The regulation does not state that it applies only for purposes of (f)(1)(v), (g)(1)(i)(B), (g)(1)(iv), and (h)(1).

As stated above, Treas. Reg. §1.937-2(j) invokes IRC §318(a)(2), but it modifies IRC §318(a)(2)(C) to use 5% instead of 50%. IRC §318(a)(2)(C) provides in part:

> If 50 percent or more in value of the stock in a corporation is owned * * * by * * * any person, such person shall be considered as owning the stock owned * * * by * * * such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

As modified, IRC §318(a)(2)(C) starts as: "If 5 percent or more in value of the stock in a corporation is owned * * *." There are two important items here:

1. A 5% threshold, and
2. Ownership based on value.

The four places in Treas. Reg. §1.937-2 in which the word "indirectly" is used include:

1. (f)(1)(v) - applying a 10% threshold based on value,
2. (g)(1)(i)(B) applying a 10% threshold based on vote,
3. (g)(1)(iv) applying a 25% threshold based on value, and
4. (h)(1) applying a 10% threshold based on vote.

In (g)(1)(i)(B) and (h)(1), the thresholds are based on voting rights. Voting rights are irrelevant to applying IRC §318(a)(2). Therefore, uses of the word "indirectly" in (g)(1)(i)(B) and (h)(1) are clearly unrelated to the attribution rules in IRC §318(a)(2).

Furthermore, each of the four times "indirectly" is used in Treas. Reg. §1.937-2, a 10% or 25% threshold is applied. If the IRC §318(a)(2) attribution rules apply only where the word "indirectly" is used, then the rules would only apply with respect to a 10% or 25% threshold. It would not make sense for the IRC §318(a)(2)(C) rules to be modified to apply a 5% threshold, when the 5% threshold would never be used.

The advisors also claim that there would be no need for (f)(1)(v) if IRC §318(a)(2) applied to all of Treas. Reg. §1.937-2. That is, they claim that (f)(1)(v) would be "surplusage"[19] if IRC §318(a)(2) applied to the other parts of (f)(1). If IRC §318(a)(2) applies to all of Treas. Reg. §1.937-2, then when Tainted Property is contributed into a partnership and sold by the partnership, both (f)(1)(i) and (f)(1)(v) would overlap so that both would trigger the Tainted Property rules. The flaw in this argument is that (f)(1)(i) does not apply where the Tainted Property is contributed into a foreign corporation (see Example 5 above).[20] When Tainted Property is contributed into a foreign corporation and then sold by the foreign corporation, only (f)(1)(v) applies. Without (f)(1)(v), gain recognized by the Puerto Rican corporation on the Shares in Example 5 would be Puerto Rican-source income. The rule in (f)(1)(v) is not surplusage.

The Tainted Property rules are anti-abuse rules intended to implement the legislative purpose of preventing U.S. persons from avoiding U.S. income tax on appreciated property by acquiring residency in Puerto Rico prior to its disposition. The House Committee Report that accompanied the enactment of IRC §937 stated that it intended Treasury and the IRS to use their regulatory authority to "prevent abuse, for example, to prevent U.S. persons from avoiding U.S. tax on appreciated property by acquiring residence in a possession prior to its disposition."[21]

An interpretation that IRC §318(a)(2) attribution only applies to (f)(1)(v), (g)(1)(i)(B), (g)(1)(iv), and (h)(1) is inconsistent with the plain language of the regulation and with the legislative history behind the rule. The plain and obvious reading of Treas. Reg. §1.937-2(j) is that IRC §318(a)(2) applies to the entirety of Treas. Reg. §1.937-2 and that stock owned by a partnership is considered as owned by its partners.

In *Lynch v. Alworth-Stephens Co.*,[22] the Supreme Court stated: "[T]he plain, obvious and rational meaning of a statute is always to be preferred to any curious, narrow, hidden sense that nothing but the exigency of a hard case and the ingenuity and study of an acute and powerful intellect would discover."

Here, the plain, obvious and rational meaning of Treas. Reg. §1.937-2(j) is that the IRC §318(a)(2) attribution rules apply for all purposes of 1.937-2. There is no hidden meaning to the use of the word "indirectly" in several places within Treas. Reg. §1.937-2. Furthermore, such a reading would allow appreciated property owned prior to an individual becoming BFRPR to be excluded from income under IRC §933, when exclusions are to be narrowly construed.[23]

IRC §318 ONLY APPLIES TO SHARES — INDIRECT OWNERSHIP MAY APPLY TO OTHER TYPES OF PROPERTY

The indirect ownership rules of IRC §318(a)(2) only apply to shares of stock. They do not apply to other types of property. For example, artwork owned by a partnership would not be subject to the indirect ownership rules of IRC §318(a)(2). However, artwork would be subject to the indirect ownership rules in Treas. Reg. 1.937-2(f)(1)(v). This is perhaps the reason for the use of the term "indirectly" in this provision.

The other times that "indirectly" is used in Treas. Reg. §1.937-2 is to define a term or to apply a special rule. There is no reason to believe that use of the term "indirectly" in these circumstances would alter the explicit general rule of Treas. Reg. §1.937-2(j) that the IRC §318(a)(2) indirect ownership rules apply elsewhere in the regulation.

RECENT IRS GUIDANCE

On September 19, 2025, the IRS released CCA 202538025, which deals with the applicability of the Tainted Property rules to gains from sales of personal property by a partnership. The CCA explicitly assumed that the IRS agent to whom the advice was being given had already determined that the property sold by the partnership was Tainted Property and that the partner was an individual who was considered a BFRPR in the Year of Sale and was a citizen or resident of the U.S. for 10 years preceding the Year of Sale (and a BFRPR for less than 10 years).

If the property held by the partnership was shares of stock, then the IRS agent may have already determined that, through the application of Treas. Reg. §1.937-2(j), IRC §318(a)(2) attributed ownership of the shares from the partnership to the partner before the partner became a BFRPR. However, because there is no discussion in the CCA of the type of property held by the partnership, the CCA does not shed any light on the IRS's views with respect to Treas. Reg. §1.937-2(j).

On December 17, 2024, the IRS released AM 2024-005. Under the facts of the AM, a taxpayer owned all of the shares of an S corporation (the "S Corporation Stock"). Prior to becoming a BFRPR, the taxpayer contributed appreciated shares of stock (the "Appreciated Stock") to the S corporation in a tax-free transfer. The taxpayer then became a BFRPR.

In Situation 1 of the AM, the taxpayer sold the S Corporation Stock after he became a BFRPR. The analysis and conclusion for Situation 1 were simple: the S Corporation Stock was Tainted Property; if the taxpayer did not make a split-sourcing election, none of the gain would be Puerto Rican-source income.[24]

In Situation 2 of the AM, the S corporation sold the Appreciated Stock after the taxpayer became a BFRPR. The AM properly concluded that the source of gain from a sale of personal property by an S corporation is evaluated at the entity level. Since the S corporation is a U.S. corporation, the S corporation's gain was U.S.-source income, and none of the gain could be excluded under IRC §933. The AM concludes that IRC §1373(a) does not apply for purposes of applying IRC §865. While nuanced, a better interpretation is that Code §1373(a) does not apply for purposes of applying Code §933. In either case, gains recognized by S corporations are not Puerto Rican-source income and cannot be excluded from income under IRC §933.

After addressing the S corporation's sale of the Appreciated Shares in Situation 2, the AM then goes on to briefly analyze Situation 2, alternative facts, where the taxpayer instead transfers the Appreciated Stock to an entity classified as a partnership in a tax-free transfer and the taxpayer owns a 10% or greater interest in the partnership when the partnership sells the Appreciated Stock The AM concludes under these alternative facts that (f)(1)(v) would apply and none of the gain would be Puerto Rican-source income. As indicated above, when Tainted Property is contributed into a partnership and sold by the partnership, both (f)(1)(i) and (f)(1)(v) would overlap so that both would trigger the Tainted Property rules. For Situation 2, alternative facts, the AM concludes that (f)(1)(v) applies. Subsection (f)(1)(i) would also apply to this situation.

AVOIDING PENALTIES

Penalties can be imposed for substantial understatement of tax.[25] Individual taxpayers who are not involved in tax shelters may avoid these penalties if: (1) the position is supported by substantial authority,[26] (2) the position is adequately disclosed and there was a reasonable basis for the position,[27] or (3) there was reasonable cause for the understatement of tax.[28]

To rely on the second exception (adequately disclosed and reasonable basis), the disclosure must be made using Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement.*[29] For a position contrary to a regulation, the disclosure must be made on Form 8275-R.[30] The adequate disclosure exception does not apply if the taxpayer's position lacks a "reasonable basis."[31] Reasonable basis is defined as "a relatively high standard of tax reporting, that is, significantly higher than not frivolous or not patently improper. The reasonable basis standard is not satisfied by a return position that is merely arguable or that is merely a colorable claim."[32]

Treas. Reg. §1.937-2(j) explicitly states that IRC §318(a)(2) applies "[f]or purposes of this section." If a taxpayer takes the position that IRC §318(a)(2) does not apply for purposes of the Tainted Property rules, this would appear to be a position directly contrary to the regulation. If this position has a reasonable basis, a taxpayer taking such a position should consider disclosing the position by attaching Form 8275-R to their return.

Reasonable cause requires that the taxpayer exercise ordinary business care and prudence as to the disputed item.[33] Good faith reliance on the advice of an independent, competent professional as to the tax treatment of an item may meet this requirement. However, when the advice seems too good to be true,[34] the tax advisor is a promoter,[35] or the opinion is merely designed to protect from penalties,[36] a tax opinion does not provide reasonable cause.

CONCLUSION

Income from the sale of personal property is generally sourced on the basis of the residence of the seller. Special rules apply to Tainted Property sold within 10 years of becoming a BFRPR. Tainted Property is property that is "investment-type" and owned by an individual prior to becoming a BFRPR. Taxpayers can elect a split-sourcing rule to recognize a portion of the gain on the disposition of Tainted Property as Puerto Rican-source income. If no election is made, then none of the gain is Puerto Rican-source income.

Attribution rules treat shares owned by a partnership as being owned by the partners. If the partnership owns the shares prior to the partner becoming a BFRPR, the shares are Tainted Property. When the partnership sells the shares and no split-sourcing election is made by the partner, none of the gain on the sale of the Tainted Property is Puerto Rican-source income.

Arguments that IRC §318(a)(2) does not apply to a partnership for purposes of the Tainted Property rules are inconsistent with the plain language of the regulation and inconsistent with the legislative purpose of the regulation. While there may be some overlap between (f)(1)(i) and (f)(1)(v), there is no surplusage in (f)(1)(v).

End Notes

1 IRC §933. All section references are to the Internal Revenue Code of 1986, as amended (the "Code") and the regulations promulgated thereunder.

2 IRC §865(a)(1).

3 Treas. Reg. §1.937-2(f)(1).

4 Treas. Reg. §1.937-2(f)(1)(iii)(B).

5 H.R. Rep. No. 108-755, at 795 (2004).

6 *Neonatology Associate, P.A. v. Commr.*, 299 F.3d 221, 234 (3d Cir. 2002).

7 Treas. Reg. §1.937-2(f)(1)(i).

8 Treas. Reg. §1.937-2(f)(1)(vii)(A).

9 Treas. Reg. §1.937-2(f)(1)(vi)(A).

10 Treas. Reg. §1.937-2(f)(1)(vi)(B).

11 Treas. Reg. §1.937-2(f)(1)(i).

12 IRC §865(i)(5).

13 Treas. Reg. §1.937-2(f)(1)(iv) ("If an individual described in * * * (f)(1)(iii) * * * exchanges property described in * * * (f)(1)(ii) * * * for other property in a transaction in which gain or loss is not required to be recognized * * *, such other property will also be considered [tainted] property described in * * * (f)(1)(ii) * * *.").

14 *Id.*

15 Treas. Reg. §1.937-2(f)(1)(v) ("If an individual described in * * * (f)(1)(iii) * * * owns, directly or indirectly, at least 10 percent (by value) of any entity to which property described in * * * (f)(1)(ii) * * * is transferred in a transaction in which gain or loss is not required to be recognized * * *, any gain recognized upon a disposition of the property by such entity will be treated as income from sources outside [Puerto Rico] if any gain recognized upon a direct or indirect disposition of the individual's interest in such entity would have been so treated under * * * (f)(1)(iv) * * *.").

16 IRC §367(a)(1). In addition, at the time Treas. Reg. §1.937-2 was promulgated, no gain was required to be recognized on active business property transferred to foreign corporations. Former IRC §367(a)(3) and Treas. Reg. §1.367(a)-2T.

17 IRC §367(a)(2) and Treas. Reg. §1.367(a)-3(b).

18 Treas. Reg. §§1.367(a)-3(b) and 1.367(a)-8.

19 In construing the Code and regulations thereunder, words used should not be considered surplusage. *D Ginsberg & Sons v. Popkin*, 285 U.S. 204, 208 (1932) (It is a cardinal rule of statutory construction that "effect shall be given to every clause and part of a statute.")

20 (f)(1)(v) applies to tax-free transfers to "any entity."

21 H.R. Rep. No. 108-755, at 795 (2004). The preamble to Treas. Reg. §1.937-2T, a forerunner to the current rules, echoed this purpose. See Preamble to Temporary Regulations, TD 9194 at II.B. (Apr. 11, 2005).

22 267 U.S. 364, 370 (1925).

[23] *Commr. v. Jacobson*, 336 U.S. 28 (1949); *Bingler v. Johnson*, 394 U.S. 741 (1969).

[24] Treas. Reg. §1.937-2(f)(1)(i).

[25] IRC §6662(d).

[26] IRC §6662(d)(2)(B)(i) and Treas. Reg. §1.6662-4(d).

[27] IRC §6662(d)(2)(B)(ii) and Treas. Reg. §1.6662-4(e) and (f).

[28] IRC §6664(c)(1) and Treas. Reg. §§1.6662-4(a) and 1.6664-4(a).

[29] Treas. Reg. §1.6662-4(f)(1).

[30] *Id.*

[31] *Id.*

[32] Treas. Reg. §1.6662-3(b)(3).

[33] *United States v. Boyle*, 469 U.S. 241 (1985); see also *Neonatology Associates, P.A. v. Commr.*, 115 T.C. 43, 98 (2000), *affd.* 299 F.3d 221 (3d Cir. 2002).

[34] *Robucci v. Commr.*, T.C. Memo. 2011-19; *Neonatology Associate, P.A. v. Commr.*, 299 F.3d 221, 234 (3d Cir. 2002) ("When * * * a taxpayer is presented with what would appear to be a fabulous opportunity to avoid tax obligations, he should recognize that he proceeds at his own peril.").

[35] *Blum v. Commr.*, 737 F.3d 1303, 1317-1318 (10th Cir. 2013), T.C. Memo. 2012-16; *PICCIRC v. Commr.*, T.C. Memo. 2024-50.

[36] *Stevens v. Commr.*, T.C. Memo. 2025-45 (an attorney's "tax opinion letter was designed to protect [the taxpayers] from penalties, not to assess their 'proper tax liability.'").