

A) Entering into an Agency

Bronx entered into a contract with Alesse securing sole agency and distribution rights of Alesse for the next five years starting 1st March 2016 including the fact that Bronx will be the only supplier of Alesse in Australia by paying a sum to the tune of \$205,000. There were various terms and conditions that arose out of the contract for both the parties to fulfill. However, primarily the motive of the contract was to gain supplier and agency rights in Australia. The supplier and distribution rights arising out as contractual obligations between the two parties can be read as CGT assets as per s100.25ITAA97. It will also be considered as a CGT event under s104.35ITAA97 as contractual rights are born by paying a sum to Alesse. Every ounce of profit arising out of this contract shall be taxed as a capital gain in consecutive financial years. The association between Bronx and Alesse will open new avenues for both parties leading to various taxable rights and obligations as the contract is executed in full throttle.

B) Benefits paid by Alesse on Mrs. Gilling visit to trip to negotiate terms of agency

Mrs Gilling,, on her business trip to Italy which she had taken to discuss the contract of agency with Alesse. On this trip she spent \$9,500 as travel costs. These costs which incurred by her can be claimed as deduction under section s900.155 ITAA97. Thereafter, while deliberations were in process for negotiating the terms and conditions of the contract, she incurred \$10,500 as legal costs. Since these costs were borne by her in furtherance of her business, they can be considered as expenses incurred while carrying on business. These expenses are deductible under s8-1ITAA97 as expenses incurred in carrying on of business.

Subsequently, the agreement was signed on 1st of March 2016 which was followed by a battery of formal dinners and sightseeing trips valued at \$850 organized by Alesse. Mrs.Gilling was also gifted a leather travel set which was priced at \$2,500 can be considered as a gift as these activities were not a part of the contract of agency so signed between Bronx and Alesse. It can also be considered that these actions were a consequence of a personal relationship that could have developed between the proprietors of both parties. Therefore, there is no taxable liability which has to be borne for this gesture of Alesse towards its new partner.

C) Cost of attending Annual Launch

The terms of contract entered into, by Bronx and Alesse include a condition for attending an annual launch in Italy every year. This exercise is necessary for updating Bronx with the latest collection of Alesse. This in turn will help keep business in Australia updated to that in Italy provided that Mrs.Gilling along with her son and daughter are well versed with the brand new collection. Hence, the condition for Mrs.Giller to attend the launch with her daughter and son. Therefore, it can be said that the trip to Italy is business trip in order to generate more revenue in Australia. According to s900.55 ITAA97 any travel expenses incurred for flying outside of

Australia are deductible. The mandatory condition being that written evidence has to be maintained for claiming this deduction. Hence, in the instant case the travel expenses incurred by the all three of the representatives of Bronx to go to Italy shall be deductible in as mentioned in s900.155 ITAA97.

D) Product Support Payments paid by Bronx to Alesse

The monthly expenditure of \$5000 for product support and marketing material is to be borne by Bronx as mentioned in the contract between the two parties. This transaction between the contracting parties has is merely a contractual obligation which shall have no taxable liability. The usual rates for tax shall be applied for buying such services from Alesse as it is a foreign agency carrying out business in Australia. However, it has to be borne in mind that while the sum of \$5000 goes into buying services which will eventually led to capital gain for Bronx. Hence, it can be considered as an expenditure for creating a CGT.

E) Taxable Liability for sale of 20% shares

The question of taxable liability of Mrs. Gillling for the sale of 20% of shares in Bronx is interesting. It is pertinent to note that Mrs.Gilling acquired 100% shares in Bronx as consequence of a marriage breakdown due to which she acquired Bronx for a paltry sum of \$256,000 in January 2000. Hence, it falls within the ambit of CGT assets according to s100.10ITAA97 and since they are shares they fall within s100.25ITAA97. Having bought 100% shares of Bronx for \$256,000 Mrs.Gilling sound a mere 20% for \$1,500,000. The capital gain since acquiring the said asset is huge. The said asset has been held for more than a year by virtue of which it is a long term asset. The fact that Mrs.Gilling is an individual moving assets and not a company plays in our favor because while calculating capital gains on the event of sale, by using the discount method, Mrs.Gilling would be entitled to 50% discount on the capital gain. The capital gain can be worked out by subtracting the Cost base from the Capital proceed and discounting 50% on it. Therefore, in the instant case 100% shares of Bronx were bought for \$256,000 (20% would be equal to \$51,200), in 2016 20% of them were sold for \$1,500,000 making the capital gain \$1,448,000. By applying the discount method of computing capital gain, 50% discount would be applicable since the asset has been held for more than a year bringing it to \$724,000. The CGT would be applicable only to the tune of \$724,000 with regard to the transaction of sale of 20% shares in Bronx.

F) Cost base of Showroom

The showroom bought by Mrs.Gilling in pursuance of the agency agreement with Alesse cost her \$1,500,000. In addition to that she got the showroom painted for \$7600 and new flooring for \$16,600 throughout the premises which adds up to \$24,200. The fact that the showroom suffered

considerable damage due to a hailstorm merely one month into the agreement must also be considered. Mrs. Giller spent \$85,000 on repair and \$180,000 on structural works which added to the tune of \$265,000. However, \$85,000 was covered by insurance leaving the sum back to \$180,000. Therefore, the total expenditure of Mrs. Gilling capital works of the showroom is \$24,200+\$180,000 which is \$204,200. The outcome of all these events is that the cost base of the showroom which was initially \$1,500,000 shall be reduced by \$204,200 as the amount spent on capital works can be claimed as deduction under section s43.20 ITAA97. This brings the cost base of the showroom so bought by Mrs. Gilling to \$1,295,800.

G) Insurance Payment and cost of Hail Damage.

Mrs. Gilling bought a new showroom for \$1,500,000 in furtherance of the agency contract in her own name and rented it out to Bronx at a commercial rate. However, a month into the agreement, the showroom was damaged by a wild hail storm resulting in closure of the showroom for 3 weeks as repairs were going on. It cost Mrs. Gilling \$85,000 on repair and \$180,000 on structural works which added to the tune of \$265,000. However, \$85,000 was covered by insurance as both structural works and repair, leaving the sum back to \$180,000 to be paid. But in accordance with s43-40 ITAA97, deduction against costs incurred after destruction of capital works can be claimed. Therefore, the amount which was not covered by the insurance can be set off under this section to an extent. Therefore, even though the insurance cover did not reimburse all the expenses borne by Mrs. Gilling, the remaining amount could be set off as deductions at the end of the financial year.

H) Silvio Staying in Australia Permanently

Under the aforementioned agency agreement, Alesse was to send a marketing manager from the Italian head office to Australia each year who was made available to Bronx for pitching sales and marketing campaigns, while Bronx was to pay for the accommodation and travel while his stay for a month in Australia. However, in the instant case the marketing manager sent by Alesse i.e. Silvio came to Australia on 1st April 2016 with his wife and children. He loved Australia so much that he decided to stay put in the country indefinitely. Thus, he had to resign from his employment with Alesse, who in return made Silvio sign a non-compete promise by paying him \$90,000 for the next 12 months which was operational from 1st April 2016. In this situation there is no liability for Mrs. Gilling or Bronx to be fulfilled as they did not incur any expenses or any profit on account of Silvio as he resigned after coming to Australia. It is clear from the promise of Non-compete which operates from 1st April 2016 that Bronx was not able to avail any services from Silvio as market manager sent by Alesse.

References

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