

Locke
Lord

Protecting Your Nonprofit Client: Opinions, Privilege, and Return Positions


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David C. Gair
Partner | Dallas
david.gair@lockelord.com
214-740-8528
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Nonprofit Tax Scams Over Years

- 1) Donor Advised Funds
- 2) Employee Stock Ownership Plans
- 3) Corporations Sole
- 4) Tax Exempt Accommodation Transactions
- 5) Excess Compensation
- 6) Conservation Easements



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Fisher & Sinnott Convictions

PRESS RELEASE

Two Tax Shelter Promoters Found Guilty in Billion-Dollar Syndicated Conservation Easement Tax Scheme

Friday, September 22, 2023

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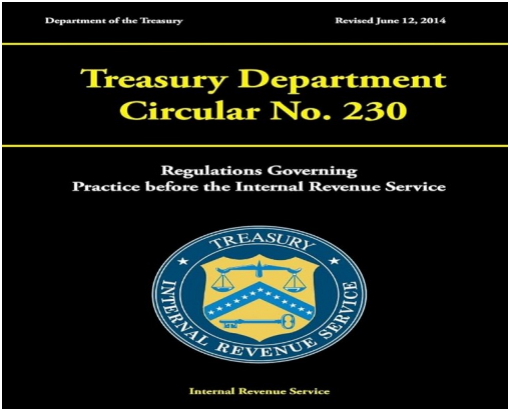
For Immediate Release

Office of Public Affairs

Defendants Sold Over \$1.3 Billion in Fraudulent Tax Deductions

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Tax Opinions



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Sample Areas Where Tax Opinions Are Important

1. UBIT and Unrelated Debt-financed Income
2. Excess Benefit Transactions
3. Self-Dealing – Disqualified Person Status and Specific Exemptions
4. Lobbying – 501(h)
5. Political Campaigning – 501(c)(3) and 501(h) election
6. Public Support Test– 509(a)(2)
7. Excess Business Holdings
8. Minimum Distributions for Private Foundations
9. Private Inurement issues in Non-Profit/For Profit Joint Ventures



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Why Should Client Get a Tax Opinion?

- Determine whether a tax position is legal or not (in opinion of advisor)
- If legal, what level of certainty can advisor provide that tax position is proper?
- If advisor is wrong, can client rely on the opinion to demonstrate reasonable cause to avoid penalties?

Why?

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