

LAW 850-01 Advanced Tax Law Research - Fall 2012

Final assignment – Client Letter & Research Log

Client Letter

The purpose of the client letter is to convey your findings and conclusions on the particular issue based on your research (sometimes called an “opinion letter”). A client letter is typically less formal and will generally explain the legal outcomes without citation or complicated jargon. It should be in simple English and assume that the reader has no formal legal training.

The client letter in this case should be no more than 3 pages long.

There are several writing books on reserve that discuss client advice letters and include samples. They are:

- Marie Buckley, *The Lawyer’s Essential Guide to Writing: Proven Tools and Techniques* (2011), Chapter 31
- Linda Edwards, *Legal Writing: Process, Analysis and Organization* (5th ed. 2010), Chapter 16 and Appendix C
- George W. Kuney and Donna C. Looper, *Mastering Legal Analysis and Drafting* (2009), Chapter 4
- Richard K. Neumann, Jr., *Legal Reasoning and Legal Writing: Structure, Strategy, and Style* (5th ed. 2005), Chapter 21 and Appendix D

Research Log

In addition to the client letter, prepare a log of your research process. A research log has no conventional format like memos or other items you have written—it is simply a documentation of your research process: how you got started, the resources you consulted, the reasons you consulted those resources, and the information you found.

Research logs serve a three-fold purpose. First, research logs assist people who may be working on this issue at a later date. Seeing the research someone has already conducted saves the new person a lot of time in getting up to speed on the research already conducted on the issue. Second, you are reminded of where you’ve been already in your research. If you’ve written down the sources you’ve pursued, and the information found within them (or if they ultimately proved useless), you will not duplicate your research efforts. Lastly, the purpose of a research log is as a defense to legal malpractice. You must be able to produce a document that illustrates thoroughly the research you performed on behalf a client. Never try to create a research log after the fact—it is not a pleasant experience.

You are being assessed on your research process, not the ability to go directly to the answer. This may result in research paths that turn out to be dead ends. That's OK—future researchers who review your log will want to know that. You are conducting this research log as if you were going to prepare a memo or brief for an attorney informing him or her of the current status of the law and how it would apply to our client's situation. Therefore, the research log may contain more legal authority than you would ever cite or use in your client letter or a legal memorandum. Again, this is OK. A research log documents the research you've found and how you found it—not just the resources you will ultimately use as authority.

The Research Log Final Assignment must document all the research you conduct for the Client Letter Assignment.

There is no particular format nor page limit for the research log. It can be in narrative or bullet points or in outline form. It is your choice. However, the process you describe must be capable of replication. Good research logs contain the following information:

- Date of research session and the time spent in a research session
- Aspect of the problem you're attempting to research
- Name of each source used and why you chose to use it
- Description of results
- Bluebook citations are not required, but you must provide sufficient information to locate the resource to which you're referring and replicate your search.

Please bear in mind that the research log is the final assessment in this course. As a result, it also serves the purpose of a final exam in your other classes; i.e., it should show me what you know and what you've learned.

Some samples of research logs are available in Christina L. Kunz, et al., *The Process of Legal Research* (7th ed. 2008), which is also on reserve. It refers to them as "research journals" and they appear on pp. 426 – 437. NOTE: All these sample logs are written in narrative format with complete sentences. While you want to provide the same sort of information, you do NOT need to follow this format.

Both documents are due to me by Wednesday, October 17, 2012, at 11:59 p.m. You can send them to me electronically at jim.kelly@vanderbilt.edu

Memorandum

To: Associate

From: Partner Kelly

Date: August 29, 2012

RE: Tax Issue

Our client, Linda Hopkins, is the owner and director of a children's overnight camp. The camp is located on 100 wooded acres in east Tennessee. Ms. Hopkins bought the unimproved property in 2006 for \$200,000 in cash and \$1.5 million in nonrecourse indebtedness. After purchasing the land, she immediately constructed several permanent improvements, such as cabins for the campers and staff, a recreation center, a dining hall, swimming pools, an outdoor theatre, and a horse stable, financed entirely with cash. Today, the remaining basis of these improvements is \$100,000. She has also purchased tangible personal property over the years, such as recreation equipment and kitchen utensils, for the camp.

Ms. Hopkins directly owns the camp real estate, improvements, and related personal property. She never transferred any of the camp-related property to a corporation, partnership, or other entity. She has repaid \$500,000 of the mortgage principal on the land since 2006 so that the real property is currently subject to \$1 million of remaining nonrecourse indebtedness.

A few weeks ago, a group of investors approached Ms. Hopkins with a proposal: The investors would like to purchase the camp property, i.e., the real property plus permanent improvements, but excluding any tangible personal property, for \$5 million in cash, plus assumption of the remaining \$1 million mortgage on the property, and develop it into a resort.

Ms. Hopkins is interested in the proposal but she has several concerns:

1. She would like to continue running a camp. If she decides to sell, she will need to find a replacement property that is large enough and suitable for running a summer camp.
2. She is concerned the sale may generate a large tax liability, leaving less money to purchase replacement property and make improvements.

Ms. Hopkins called her brother, Drew, a real estate investor, to ask his opinion. Drew agreed that \$5 million (plus the assumption of the mortgage) is a reasonable price for the camp property. He also mentioned that his company (a corporation in which he is the sole shareholder) owns property that might fit the bill as replacement property. It is a 100-acre tract of undeveloped land about 50 miles south of Ms. Hopkins' current camp. She recently toured the property and agreed that it would be suitable. The new property is currently listed for \$4.6 million. Drew's company purchased the property for \$2 million in 2008. Like her current property when she originally purchased it, the property is completely unimproved and

would require significant improvements before it could be opened as a camp. Ms. Hopkins estimates that the cost to build these improvements would be \$575,000. As long as construction begins by January of next year, the new camp with improvements could be complete to open in June.

The investors want Ms. Hopkins to make a decision very soon. She would like to know the answers to the following questions:

- Assuming Ms. Hopkins decides to accept the investors' offer, what is the most tax-efficient way in which to structure the deal (i.e., how can the transaction be structured to recognize the least amount of gain)?
- If gain must be recognized, at what rate would it be taxed?
- What would her basis in the new camp property if the transaction is structured in the way you suggest?

You should only focus on federal tax issues. State and local tax issues are beyond the scope of this assignment.