

[REDACTED]

From: Patrick Aregger [patrick@nobleinvest.com]
Sent: Freitag, 22. Oktober 2004 16:28
To: [REDACTED]
Subject: FW: Swiss tax substance requirements

Attachments: NIL Jersey proposal+Oct 04.doc



NIL Jersey
proposal+Oct 04.doc

Per my previous mail

-----Original Message-----

From: dberinger@thisisnoble.com [mailto:dberinger@thisisnoble.com]
Sent: Freitag, 22. Oktober 2004 12:53
To: patrick@nobleinvest.com; mauro@nobleinvest.com; stevem@thisisnoble.com;
anthonyday@thisisnoble.com
Subject: RE: Swiss tax substance requirements

Gentlemen

Further to my note earlier this week I have drafted a proposal document to be sent to Stewart Walker of ASL in Jersey. Please may you let me have your comments on this document. I would like to send the final document next week (Weds 27th).

Thank you for your help.

Best

David

(See attached file: NIL Jersey proposal+Oct 04.doc)

"Mauro Gerli"
<mauro@nobleinvest.com>

10/19/2004 08:48
PM

Please respond to
<mauro@nobleinvest.com>

<dberinger@thisisnoble.com>

"Aregger Patrick"
<patrick@nobleinvest.com>

RE: Swiss tax substance
requirements

To

cc

Subject

Great !
Thx for yr support !
We look forward receiving yr draft for comments.
Rgds, mauro

-----Original Message-----

From: dberinger@thisisnoble.com [mailto:dberinger@thisisnoble.com]
Sent: 19 October 2004 14:10
To: patrick@nobleinvest.com; mauro@nobleinvest.com
Cc: 'Anthony Day (E-Mail)'; stevem@thisisnoble.com
Subject: RE: Swiss tax substance requirements

Dear Patrick and Mauro

Thank you for your help last week with briefing me on the Noble Investments business. I have a much clearer picture.

met with Stewart Walker today who is a director of the Noble Energy business and executes their contracts in Jersey. Stewart is a director of ASL Management Services which assists companies with the sort of services we desire.

I have talked him through the Noble Investments business, the risks associated with the business and my tax concerns. He is willing to execute NIL contracts going forward. His company can also provide us with dedicated telephone and fax facilities which would help to beef up our non-Swiss substance claim. He has asked me to provide him with a proposal detailing the services we require and providing background, activities and the risks of the NIL business. I will draft this and circulate it for comments.

Best regards

David

David
Berlinger/CORP/Nob
legroup

09/28/2004 06:07
PM

<patrick@nobleinvest.com>

To

cc

"'Anthony Day \ (E-Mail\)'"
<anthonyday@thisisnoble.com>,
"Gerli Mauro"
<mauro@nobleinvest.com>, "'Graf
Thomas'" <thomas.graf@nkf.ch>

Subject

RE: Swiss tax substance
requirements(Document link: David
Berlinger)

Patrick

Thank you for your email below confirming Thomas's comments. I have revised my paper to reflect the comments made. I have a couple of recommendations. These are:

We should stop executing contracts in Switzerland and ensure that in future non-Swiss personnel execute them. I propose that, since there is a risk of creating a tax presence of NIL in Hong Kong if contracts are executed there, the contracts be executed in Jersey.

We then need to consider taking the administration functions of NIL out of Switzerland. These can be performed in Hong Kong if they are purely administrative without creating a tax presence.

Noble Energy contracts are presently executed in Jersey. I will work to put in place a similar procedure so that NIL's contracts may be executed there. On the second point I see this happening over time. In due course it would be helpful to meet to discuss the different functions performed in Switzerland and to map out the work process. This is likely to be late October. In the course of doing this exercise we should be able to agree on the functions to remain in Switzerland and those to be performed elsewhere.

trust this is helpful. Please contact me should you have any questions.

Best regards

David

[attachment "NIL paper on Swiss tax issues+28.9.04.doc" deleted by David Beringer/CORP/Noblegroup]

"Patrick Aregger"
<patrick@nobleinvest.com>

09/28/2004 02:55
PM

Please respond to
<patrick@nobleinvest.com>

"Graf Thomas"
<thomas.graf@nkf.ch>, "David J.
Beringer \ (E-Mail) '"
<dberinger@thisisnoble.com>

"Anthony Day \ (E-Mail) '"
<anthonyday@thisisnoble.com>,
"Gerli Mauro"
<mauro@nobleinvest.com>

To

cc

Subject

RE: Swiss tax substance
requirements

David

Per Thomas' mail below I confirm the amended content to reflect the situation in an accurate manner. Waiting for a word on next steps.

rgds
Patrick

From: Graf Thomas [mailto:thomas.graf@nkf.ch]
Sent: Montag, 27. September 2004 13:45
To: David J. Beringer (E-Mail)
Cc: Anthony Day (E-Mail); Mauro Gerli (E-Mail); Patrick J. Aregger (E-Mail)
Subject: WG: Swiss tax substance requirements

Dear David

Many thanks for sending me the working paper on NIL's Swiss tax issues. I have made my comments directly as mark-up to the working paper (attached). I kindly ask Mauro Gerli and Patrick Aregger to review the working paper as well and to confirm the accuracy of the facts description.

Basically, the Swiss tax ruling does not contain any limitation in a situation of growing business. Furthermore, the compensation mechanism of NISA (cost + 20% of NIL's profits) leads automatically to an increased profit of NISA in a situation where the overall profit is growing. Consequently, the risk is not very high, that in a situation of growing business the tax authorities will automatically challenge the tax ruling. However, one has to bear in mind that Swiss tax authorities have always the possibility to cancel a tax ruling with a reasonable period of notice, since tax ruling relating to ongoing business matters is not eternally binding but may be reviewed from time to time.

As a general statement one can say, that the less functions are carried out in Switzerland, the lower are the tax risks in Switzerland (as long as the compensation paid to NISA is still the same).

I hope my comments are helpful to you. Please do not hesitate to contact me if you have further questions.

Best regards,
Thomas

-----Ursprüngliche Nachricht-----

Von: dberinger@thisisnoble.com [mailto:dberinger@thisisnoble.com]
Gesendet: Mittwoch, 22. September 2004 13:13
An: thomas.graf@nkf.ch
Cc: anthonyday@thisisnoble.com; patrick@nobleinvest.com
Betreff: Swiss tax substance requirements

Dear Thomas

It was helpful to talk through the issue with you yesterday. I have prepared the attached working paper summarising the background and issues. The solution to the issue does appear to require non-Swiss personnel to sign the contracts outside Switzerland. I will be interested in your comments on the attached.

I have also been reflecting on whether the tax settlement with the Swiss authorities may be undermined in the event that the business of Noble Investments Ltd grows materially. I perceive the current agreement may have been premised on a certain level of costs or profit of Noble Investments Ltd. Please may you advise on what you perceive the risks to be. Please may you also comment on whether relocating the functions performed for Noble Investments Ltd by Noble Investments SA out of Switzerland would mitigate this exposure. I recognise that such a move would necessitate renegotiating the tax settlement with the Swiss authorities.

Best regards