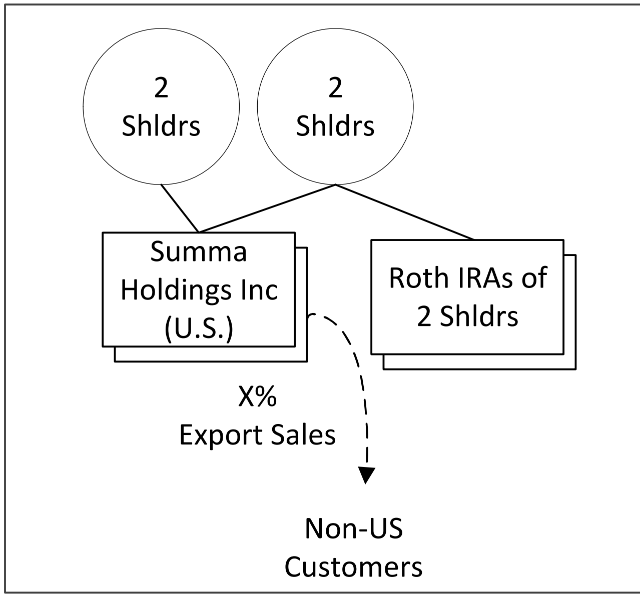
Summa Holdings, Inc. v. Comm’r, 848 F.3d 779 (2017)

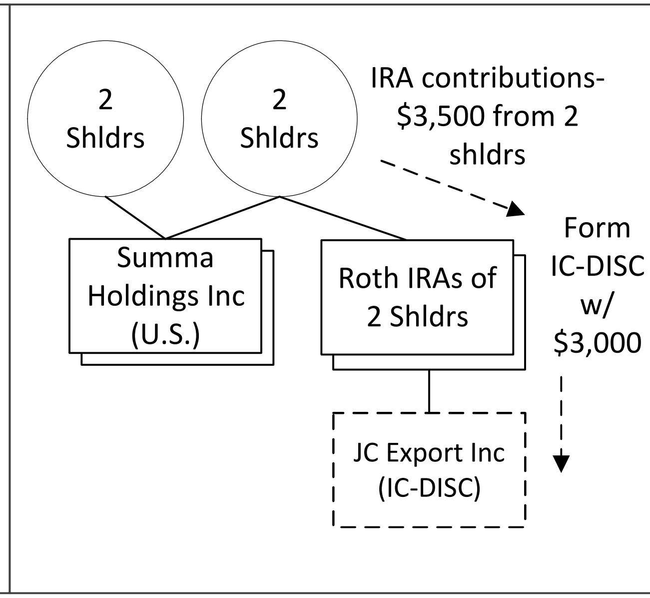
IC-DISC Planning

LINCOLN

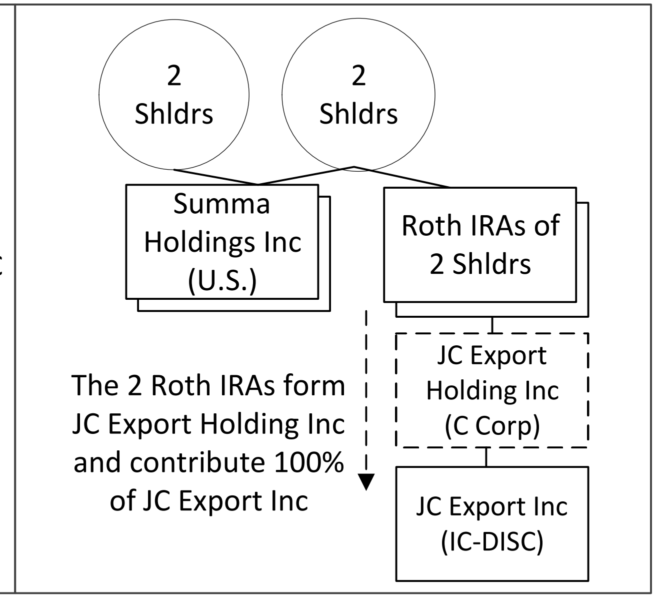
1 Begin



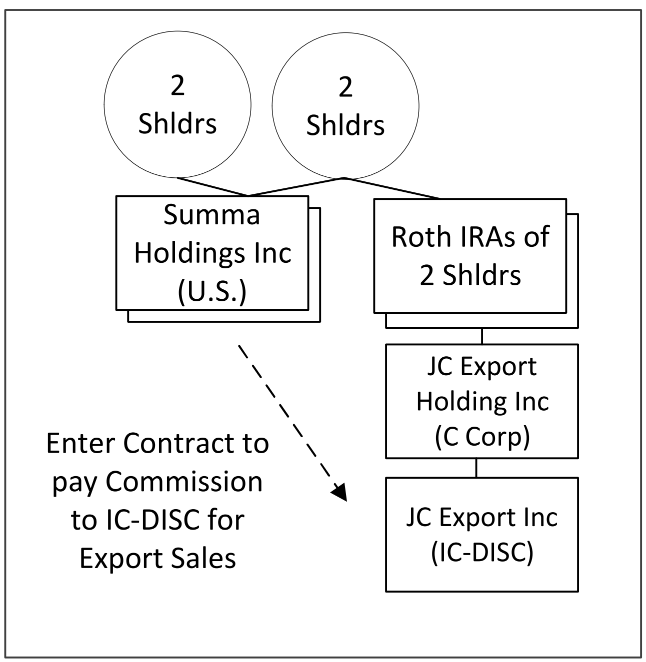
2 Form IC-DISC below Roth IRA



3 Form Holding Company For IC- DISC



4 End



Holding of Case

On February 17, 2017, the US Appeals Court for the Sixth Circuit in Summa Holdings, Inc. v. Comm’r held that using an IC-DISC and Roth IRA together for tax planning is permissible.

Comments

After setting up an IC-DISC, the operating entity (Summa Holdings, Inc.) entered into a contract whereby it agreed to pay a commission to the IC-DISC for acting as its agent with respect to export sales. Under the Tax Code, an IC-DISC does not actually need to perform any sales activity to earn a commission. Where a closely-held company has export sales and complies with the various requirements (not discussed here) related to this structure, the shareholder(s) can achieve the following tax benefits:

1. They can fund their Roth IRA (above contribution limits) with commission income earned by their IC-DISC (4% of gross export receipts or 50% of taxable income from export sales).
2. The IC-DISC pays no federal income tax. An IC-DISC generally distributes its earnings each year and its shareholder pays tax on the distribution. If the IC-DISC distribution occurred in 2019, the shareholder (JC Export Holding Inc) would pay federal tax at 21% . When JC Export Holding Inc distributes dividends to the Roth IRAs, no additional tax is due. Further, when the Roth IRAs distributes funds to its beneficiaries, no additional tax is due.