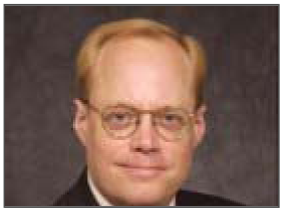

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Tory Burch Settles Legal Scraps A Billionaire, Puts Flats On The Gas Pedal

Designer Tory Burch (Image credit: Getty Images North America via @daylife)

Tory Burch, the über-successful 46-year-old fashion mogul, is off to a remarkable 2013, a new billionaire headed toward the Forbes 400. She started with a New Year's announcement: she and her company buried the hatchet with her (copy-cat?) ex Chris Burch. Burch on Burch will not become *Jarndyce v. Jarndyce*. All pending legal claims are settled, ending an increasingly nasty and public battle of lawsuits and counterclaims.

You have to hand it to Ms. Burch given the head-scratcher suits between the one-time couple. After their 2006 divorce, Mr. Burch launched C. Wonder, a cheap preppy chain. Perhaps the resemblance between the budget also-ran and Ms. Burch's billion dollar brand was coincidence? Mr. Burch had to go off the board of Tory Burch LLC, but retained a 28.3% stake. See Flats Full Of Cash: Tory Burch Becomes Newest Billionaire.

When Mr. sued Tory and her board he claimed they were thwarting relations with suppliers and hindering his sale efforts. Tory Burch LLC countersued claiming C. Wonder was a "knockoff brand...with mass-market versions of the top-selling Tory Burch items." Mr. Burch has now sold parts of his 28.3% stake to BDT Capital Partners and General Atlantic, a private equity firm founded by philanthropist Chuck Feeney.

The settlement and new blood may mean an IPO, although Ms. Burch has suggested otherwise. The Burch on Burch divorce was in 2006, so presumably the current settlement is pure business. Yet interestingly, divorce settlements are usually tax free. See Biggest Injustice Of Denying Same-Sex Marriage? Tax-Free Divorce.

Business disputes are usually taxed but here are some variables Ms. Burch and her tony company might face:

Property Settlement. Property settlements are not taxed to either spouse, but tax basis still counts. If Mr. ended up with low basis assets and then sells them, he takes the whole tax hit.

Alimony. If there's spousal support, it's income and deductible by the payor. The IRS audits divorced couples frequently since the payor may claim deductions for payments the recipient doesn't report.

Business Split. When a business divides, it may be taxed as a sale, dividend or not at all. Details and mechanics matter. See Selling Your Business? Taxes Are Key.

Capitalize. Some settlements must be capitalized. That increases your basis but you won't get a tax benefit until you sell. See Stakes Loom Large in Determining Taxation of Investment Loss Lawsuit Recoveries.

Deductible. The vast majority of business disputes including over intellectual property are deductible by the payor and income to the payee. Here, Mr. was suing Ms. for breach of contract concerning his stake in Tory Burch LLC. Ms. was suing for misappropriation of trade secrets. That probably means the payor deducts, the recipient has income.

Ordinary v. Capital. This is an interesting possibility for the Burch v. Burch settlement. See Baldwin v. Costner Suit May Come Down To Taxes. Some patent and other IP recoveries are capital gain. See Five Tips About Capital Gain For Everyone (Not Just Mitt Romney). For individuals, partnerships, LLCs and S corporations, like capital gain. (C corporations pay 35% on both ordinary income and capital gain.)

In 2013, there's now a higher capital gain rate for high earners plus the 3.8% Obamacare tax. But if you are a Burch, a 23.8% tax is better than 39.6%. See Securities Lawsuit Recoveries: Capital Gain or Ordinary Income?

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