ALIVE RISK

LOAN-OUT CORPORATIONS

Are you insuring your star client properly?

What is a Loan-Out Corporation?

Loan-Out Corporations, also commonly referred to as shell corporations, in the entertainment industry are separate legal entities (Corporations, LLCs or LLPs). The purpose of this entity is to separate the individual from their business activities. They are typically formed for high-profile or highly successful individuals in the entertainment industry. These entities are almost exclusively a single individual involved in the entity.

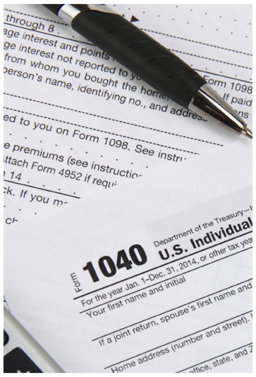
These entities are formed for individual actors or actresses, directors, producers, screenwriters, musicians, composers, radio / TV broadcasters, athletes and many more. As an example, actors who are hired by a production company to fulfill a role will use their loan-out corporation as the vehicle to loan the talent out to the production company and to receive compensation for their involvement in the production. This situation can be extrapolated to fit almost any kind of entertainment loan-out corporation (such as an athlete loan-out provides the individual player to a sports team).

Loan-out corporations are often interchangeably used as shell corporations as a way to shield the principal business activities of the individual from their personal activities. While there are many entities that can be construed as a shell corporation, the purpose of the loan-out is intended to provide the owner to an outside entity or loan them for the purpose of their respective talent.

Why would someone need to form a Loan-Out Entity?

Generally legal and tax professionals recommend the use of this entity for both tax purposes and an additional layer of liability protection that a celebrity would not have if they performed their services as an individual.

In the film production industry, the production company would hire the loan-out rather than the individual. This would allow the production company to hire the loan-out entity without the requirement of remitting payroll taxes. Additionally, if there are licensing or royalty payments of a significant manner, the production company would find it advantageous to distribute those funds to a loan-out entity. Finally, this provides an option to exclude the loan-out corporation from workers' compensation insurance as the production company would be hiring the corporation and not an individual. The loan-out would then be able to cover or exclude the star (subject to state minimum or maximum payroll) from workers' compensation coverage.



Studios hire loan-outs without having to withhold and remit payroll taxes

General Liability Insurance for Loan-Outs

A loan-out can benefit from obtaining general liability insurance as the entity is acting as a financial pass-through of income as the primary business activity of the individual. The possibility of scenarios which could cause a celebrity to lose income or royalty, or revenue streams exist and therefore benefit from insurance protection. Celebrity status reaches beyond any current productions the individual may be involved in and not have insurance protection for their involvement in other aspects of their celebrity life events. This coverage helps protect the individual who is providing a business activity from the individual who has their personal life activities outside their persona as a celebrity.

Why include personal liability in a commercial policy?

There is a fine line between celebrity life and personal life, therefore it can be difficult to determine who is involved in a lawsuit and thereby a potential concern as to whether the entity or individual liability should be responding to a suit against a high-profile individual. When adding the personal liability (known as Comprehensive Personal Liability or CPL) to the loan-out commercial insurance policy may help eliminate any confusion as to which entity should be providing legal defense and any indemnification determined. Also, there are instances where high-profile individuals have an increased difficulty in accessing CPL on a homeowners insurance policy.

Slip and trips can happen to anyone, at anytime

What type of entities are not considered Loan-Outs?

A loan-out entity should solely be operating as a business pass-through for the individual it was initially structured to protect and nothing else. Some examples of what is no longer considered a loan-out might be performing rental house activities (rental of entertainment related equipment) with or without operators, a producer who develops productions under their entity would not qualify, musical artists or bands who go out on tour under the named loan-out entity are touring entertainers, or athletes who perform their sport and not for a team or other entity. Others can be identified based on who they are required to provide additional insured certificates to and why.

CUT! A loan-out should solely operate as a business pass-through for its principal owner.

Common Coverage for a Loan-Out

The following coverages may be suitable for a loan-out entity: general liability, automobile liability, physical damage for hired and non-owned auto coverage but also for owned auto coverage, workers' compensation, comprehensive personal liability (CPL), umbrella liability, high-limit disability, kidnap, ransom & extortion, and personal appearance media liability. Greater details are available as requested. Depending on what the insured is legally and contractually liable for will help determine whether a loan-out may be beneficial for a particular situation or not.

Please contact one of our team members for assistance in determining whether they are eligible for a Loan-Out insurance program or another available program from Alive Risk.

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