

# Tax Litigation

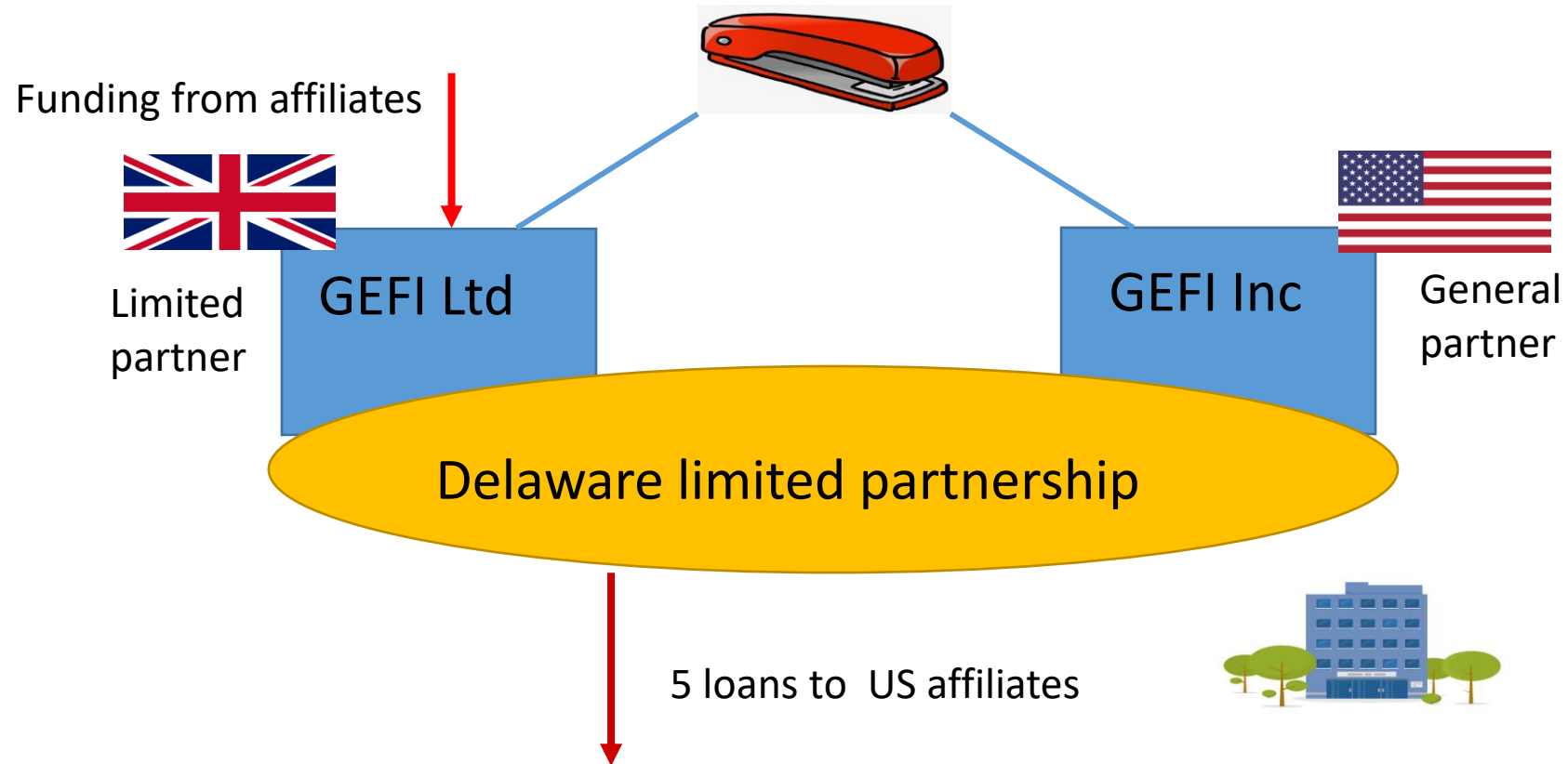
## *G E Financial Investments v HMRC*

Jonathan Schwarz  
[www.taxbarristers.com](http://www.taxbarristers.com)

# Treaty residence



# *GE Financial Investments v HMRC*



# *G E Financial Investments v HMRC* [2021] UKFTT 210

- Resident of a contracting state art 4(1)
  - UK company deemed US person by stapled entity rule
  - “liable to tax by reason of residence... or other similar criteria”?
- Permanent establishment in US art 5(1)
  - 5 loans over 6 years
  - “carrying on business through a fixed place”?
- Credit for US tax art 24(4) (a)
  - No US tax on interest –art 11(3); on business profits – art 7(1)
  - “US tax payable under the laws of the US and in accordance with this Convention”?

# Detailed analysis

- Resident of a contracting state art 4(1)
  - <http://kluwertaxblog.com/2021/07/22/liable-to-tax-by-reason-of-residence-or-any-other-criterion-of-a-similar-nature/>
- Permanent establishment in US art 5(1)
  - <http://kluwertaxblog.com/2021/09/03/permanent-establishment-when-is-business-carried-on/>
- Credit for US tax art 24(4) (a)
  - <http://kluwertaxblog.com/2021/07/22/liable-to-tax-by-reason-of-residence-or-any-other-criterion-of-a-similar-nature/>

# Further Information

- Jonathan Schwarz:
- *Schwarz on Tax Treaties* (6<sup>th</sup> Ed)
  - <https://bit.ly/SchwarzTaxTreaties6>
- *Booth & Schwarz: Residence, Domicile and UK Taxation* (20<sup>th</sup> Ed)
  - <http://bit.ly/2ur4KHo>
- Blog: Kluwer International Tax
  - <http://bit.ly/1Dm2hcZ>
- Twitter
  - @SchwarzTax

# Jonathan Schwarz

- English Barrister at Temple Tax Chambers in London. Also a South African Advocate and a Canadian and an Irish Barrister.
- Practice focuses on international tax disputes as counsel and as an expert and advises on solving cross-border tax problems.
- Visiting professor King's College London and programme director International Tax Law LLM
- Author of *Schwarz on Tax Treaties* and of *Booth and Schwarz: Residence, Domicile and UK Taxation* among other publications and a contributor to *Transfer Pricing and Business Restructurings: Streamlining all the way*.
- See [www.taxbarristers.com](http://www.taxbarristers.com) for details.

