



Land Accounting & Incorporating Your Business

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Cheddy Wigginton is a Certified Public Accountant licensed to practice in Arkansas and California. He is a former tax partner with Frost, PLLC and has written numerous articles related to business and individual taxation that have been published on a national level including for Tractorlife.com and on the website of the United States House of Representatives Committee on Small Business as well as locally for *AY Magazine*. He has a substantial background in federal and state income taxation, including multi-state taxation, specializing in taxation of family owned businesses, agriculture, manufacturing, transportation & financial institutions.

Cheddy recently served at the Chairman of the Board for Riverfest, Inc. and is currently serving as Treasurer for Ballet Arkansas, Inc. He is a member of the Little Rock Chamber of Commerce's Leadership Greater Little Rock Class XXVII as well as a member of the American Institute of Certified Public Accounts and the Arkansas Society of Certified Public Accountants, where he serves on the taxation committee.



Land Accounting/Use

- Hunting Clubs

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- Personal Hunting Clubs

- No deduction allowed for Dues paid for a hunting club – NOT even the 50% entertainment deduction

- Business Lodge

- Owned by a business and hosts clients on regular basis
 - » Possible at least 50% entertainment deduction
 - » Possible depreciation deduction for lodge



Land Accounting/Use

- Rental Income
 - Pay taxes on net income after legitimate business deductions
 - Can't depreciate land
 - Must capitalize land clearing expenses (i.e. leveling)
 - NEW for 2013 – possible 3.8% surtax on net rental income
 - So why not take a loss?





Land Accounting/Use

- **Passive Activity Losses (PAL)**
 - Rental activity is generally treated as a passive activity
 - PALs can only offset passive activity income or be carried forward
 - loss from one rental activity can offset income from another rental activity
 - i.e. lease for hunting loses \$ can offset farming rental income
 - \$25,000 loss offset for Active Participation

Land Accounting/Use

- \$25,000 Loss Exception
 - At individual level
 - Offset active income (W-2)
 - Active participation
 - Makes management decisions
 - Arranges providers of services (i.e. repairs, etc...)
 - Must own at least 10% of all interests in the activity throughout the year (spouse % counts)





Land Accounting/Use

- What happens if sell land?
 - Capital Gain (currently 20% if owned more than 1 yr)
 - Capital Gains can be subject to new 3.8% surtax
 - Can you avoid? Possibly.....
 - Section 1031 (Like Kind Exchanges)
 - Defers gain until the new property is sold
 - Time constraints (45/180 rule or due date of return)
 - Not allowed for personal use property



Land Accounting/Use

- Selling Mineral Rights = capital gain?
 - Mineral rights only and payment upfront can possibly be long-term capital gains (20% tax)*
 - However, if “lease” mineral rights with a bonus and payout based on production it is considered “ordinary income” and taxed at current effective rates

* Could also be subject to new 3.8% surtax

Land Accounting/Use

- What's this 3.8% surtax?
 - Surtax charged on net investment income in excess of certain thresholds
 - \$200k for Single ; \$250,000 for MFJ & \$11,650 for Trusts
 - Tax calculated on lesser of net investment income or the amount the taxpayer exceeds the thresholds
 - All used as a revenue generator from new health care reform legislation





Incorporating Your Business

- Choice of Entity
 - Sole proprietorships
 - Rents reported on either Sch E or Form 4835 (Farm)
 - Limited Liability Company (LLC)
 - Rents reported on Form 8825, Sch K or Form 4835
 - Subchapter S Corporation (S-Corp)
 - Rents reported on Form 8825, Sch K or Form 4835



Incorporating Your Business

- Sole proprietorships
 - No real legal protection against personal assets
 - Taxed directly on your personal return, no additional tax return necessary
 - Responsible personally for business debts
 - No direct separate books and records are required, per se



Incorporating Your Business

- Limited Liability Company (LLC)
 - Gives protection to personal assets in the event of a disaster / lawsuit
 - Only company assets can be used to satisfy business debts (unless debt is personally guaranteed)
 - Requires formal organization & franchise fees
 - No limitations on ownership
 - No salaries required to be paid
 - Disproportionate distributions allowed



Incorporating Your Business

- S Corporation
 - Similar to LLC in debt / disaster protection
 - Requires formal organization & franchise fees
 - More structured than an LLC
 - Requires Board of Directors
 - Requires a “reasonable” salary to be paid
 - Restrictive ownership (i.e. IRAs can’t be shareholders)
 - Only proportionate distributions are allowed



Questions?



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