



TAX ALLIANCE CONFERENCE
IRS/PRACTITIONERS
TAX FORUM 2023

MISSION STATEMENT:

Our mission is to provide intermediate to advanced continuing education to tax professionals held in the Dallas, Texas area at an affordable cost. We are a non-profit, volunteer organization offering practical tax training to enrolled agents, CPAs and attorneys from both the private sector as well as the Internal Revenue Service. Our seminars encourage an exchange of ideas as well as networking opportunities for the attendees.

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Responsibility for Retention of Records

This outline has been prepared from sources the authors believe to be accurate and reliable. However, the possibility of human and/or mechanical error does exist. The users of this outline are encouraged to secure additional information, as needed, to assist them in reaching a solution in any tax matter.

Credit Hours

EA's:	18 Hours CPE in Taxes & 2 hrs Ethics
CPA's:	20 Hours CPE in Taxes & no Ethics
Attorney's:	20 hrs MCLE in Tax Law /16.75 hrs MCLE with 1.75 hrs for Ethics
Program Level:	Intermediate
Prerequisite:	None

Participants, as well as seminar sponsors, must maintain a record of attendance at a CPE/CLU seminar. Circular 230 states that each individual should keep the following information for seven years: (four years forward after renewal)

- The name of the sponsoring organization;
- The location of the program;
- Program number,
- The title of the program and description of its contents;
- Written outlines, course syllabi, textbook, and/or electronic materials provided or required for the course;
- The dates attended;
- The credit hours claimed;
- The names(s) of the instructor(s), discussion leader(s), or speaker(s), if appropriate; and
- The completion and/or signed statement of the hours of attendance obtained from the sponsor.

The Tax Alliance Conference is an IRS approved continuing educator provider and is registered with the Texas Board of Accountancy as a sponsor of Continuing Professional Education, # 009389; and State Bar of Texas Course # 174046323. Ethics 2 hours: A9EFN-E-16-I. Conference 18 hours: 9EFN-T-00009-19-I.

TAX ALLIANCE CONFERENCE HISTORY

Written by Claire Edwards and Liz Melton

On September 30, 1993 an organizational Steering committee meeting was held in the Internal Revenue Service's Regional Commissioners Conference Room, 12th floor, 4050 Alpha Road, Dallas, Texas 75224. Catherine Harvey, Dallas Problems Resolution officer chaired the organizational meeting.

Mission Statement: The purpose of the Tax Alliance Conference is to create and promote equitable and efficiently tax administration for the benefit of the taxpayer through sponsorship of presentations, discussions, debates and other cooperative meetings between Tax Practitioners and the Tax Administrators (both state and federal).

In attendance at the organizational meeting were:

- Catherine Harvey, IRS Problem Resolution Officer – Dallas District
- Sarah Phillips, EA Chairman of the Houston Tax Alliance Conference
- Alice Weir, IRS Problem Resolution Officer - Houston District
- Cyndi Hutchings, EA H & R Block
- Barbara Caldwell, University of Texas Dallas
- Tom Gillreath, ACAT Council
- William J. Sexton, EA TAFTS, Dallas
- Trisha Roberts, IRS Asst. Problem Resolution Officer - Dallas District
- Joe Melton, EA TEAS
- Liz Melton, EA TEAS
- Elaine Vandergriff, EA TAFTS Metroplex
- Bill Moore, Public Affairs IRS
- Jean Bennett, EA TXSEA
- Gary Booth, IRS District Director - Dallas District
- James E. Kelley, IRS Assistant District Director – Dallas District
- Beanna Whitlock, EA TXSEA
- Claire Edwards, CPA

At this meeting it was decided that the Dallas District would indeed host a Tax Alliance Conference and two tentative dates were selected, May 17 & 18 or May 19 & 20, of 1994. A chairman and co-chairman were selected. Claire Edwards was selected chairman and Joe Melton was selected co-chairman. A budget committee was selected with Joe Melton chairing this committee. Joe Melton was appointed to select a bank and open an account with himself and Jean Bennett as signators on the account.

Since no funds were available for seed money, it was decided that each organization would go to their respective boards and ask for a loan to be made to the TAC conference (approximately \$2500 each) and that these loans would be repaid out of the first monies that were received in registrations. No organization will benefit monetarily from these conferences as any profits will be used to host the next conference.

by Claire Edwards, Acting Secretary of this meeting

The committee worked well together! Each member taking a responsibility to make the Tax Alliance Conference a success. Application for Sponsorship numbers was made to the Texas State Board of Public Accountancy, IRS Office of Professional Responsibility and the State Bar of Texas. Receiving the sponsorship, records of attendance are maintained annually.

The 2-day conference was held May 17 & 18 of 1994, at the University of Texas at Dallas. To accommodate growing attendance, the conference was moved to the Plano Centre.

Continuing to keep the conference price of attendance reasonable, a goal of the committee, is due to a cadre of knowledgeable speakers who present timely, relevant topics at no fee. The Tax Alliance Conference committee also receives no compensation for their hours of service to this event. The "seed money" of \$2,500.00 which came from the Texas Enrolled Agents Society (TEAS) and \$2,500.00 from the Texas Association of Financial & Tax Specialists (TAFTS) was soon repaid and the TAC has been self-sufficient ever since.

I have been privileged to have been on the TAC committee since that first meeting in September 1993. My husband, Joe Melton, and Claire Edwards served the first two years as Co-Chairman. Keith Thomas chaired the committee the third year. It was Joe's dream to unify the professional tax organizations, including both Federal and State taxing authorities to work together. The Tax Alliance Conference is a realization of a dream and its continued success a tribute to the tax professional community it serves.

Ms. Melton is a former founding Board member who served for over twenty years.

By Liz Melton

2023 Sponsors and Vendors for Tax Alliance Conference



At Coleman & Jackson, PC, we are experienced tax attorneys handling all matters related to tax controversy. Specifically, we represent individuals and corporations with respect to federal and state tax matters. Our practice includes representing clients in audits, defense of enforced collections and IRS administrative hearings. We also represent clients in federal, state and United States Tax Court litigation, state tax controversies and criminal tax defense. Additionally, we provide estate and corporate tax planning to assist our clients in implementing sensible tax strategies for their individual or corporate needs.

The members of the firm include Kyle Coleman and Robert Jackson. Each attorney of Coleman & Jackson PC has received a Master's Degree in Tax Law (LL.M). The lawyers may be reached by email or you may call us at (972) 810-4380.

Visit their website at www.coleman-jackson.com

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In our most-valued partnership, our Accountant Channel, we partner with over 50,000 CPA/EA/accountants/bookkeepers in four different ways, so that we can be a valuable resource to both your firm and your business clients from one owner/employee on up. Prior to belonging to the ADP Family, I proudly served in the United States Navy where my brothers' and sisters' success and safety was my success and safety. I say that because as an ADP Associate who specifically works with you all, I would love to take a few moments over the week of June 7-9 and illustrate the relationship and success that I hope to build with each of you.

Madison Michael
ADP Sales Executive

TAC 2023

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Dan Baucum is a lawyer who draws on his business and legal acumen to aid his clients with tax planning, business issues and federal tax disputes. With more than 30 years of legal experience, he also consults with legal and accounting professionals on federal tax matters and IRS practices. After establishing a successful law career in Dallas, Dan moved to Washington, D.C., where he was appointed Special Assistant to the IRS Assistant Chief Counsel. He assisted with rulemaking and policy decisions affecting passthrough entity tax issues and estate and gift tax issues by drafting and reviewing proposed regulations, revenue rulings, private letter rulings and IRS Chief Counsel notices. Since returning to Dallas, Dan has advised clients on a full array of tax planning and business transactions.

Recognized for his deft, comprehensive knowledge of LLCs, limited partnerships, S corporations and other business entities, Dan advises clients with federal tax issues and structuring challenges commonly faced by closely held businesses, private equity firms, investors and startups. His experience lends itself to a wide variety of businesses and industries, including technology companies, real estate developers and investors, wholesale and retail outlets, logistics companies, service providers, professionals, private equity investors and family offices to name just a few. Dan has taught classes as an Adjunct Professor at Georgetown Law's Graduate Tax Law Program, Southern Methodist University's Dedman School of Law and Baylor Law School. Dan is very active in the State Bar of Texas and currently serves as the 2021-22 Chair of the Tax Section.

Dan has been named as one of The Best Lawyers in America® – Tax Law (2019, 2020, 2021, 2022), Texas Super Lawyer – Tax Law (2021), Best Lawyers in Dallas (D Magazine, 2009, 2011, 2014), Five Top Notch Lawyers – Taxation (Texas Lawyer, 2012) and Power Lawyer (Fort Worth Business Press, 2014), and was named to D CEO Dallas 500 (2022, 2023).



LaTanya J. Bacon

Senior Stakeholder Liaison

IRS Stakeholder Liaison /Communications & Liaison

LaTanya is a Senior Stakeholder Liaison in Cleveland, Ohio. As a Tax Specialist, she partners with tax professionals, small business organizations and community-based organizations to develop and deliver educational products and services to individual and small business taxpayers and to tax professionals in Ohio and Michigan. LaTanya has more than 35 years of IRS experience. LaTanya has a bachelor's degree from Central State University in Business Administration.



ANTHONY “TONY” BOX represents businesses and high-net-worth individuals in all types of civil and criminal tax controversies, white-collar defense cases, regulatory investigations and enforcement actions, and compliance matters focused on preventing government inquiries and minimizing business disruptions. He protects U.S. and international clients spanning several industries, including healthcare, technology, energy, real estate, construction, manufacturing and many more.

Before joining Gray Reed, Tony developed a diverse skill set while serving in a number of public and private sector positions. Most recently, he served as a government trial lawyer and tax coordinator responsible for leading federal tax investigations and prosecutions in the Eastern District of Missouri, as well as other high-profile cases involving white-collar crime, identity theft, illegal guns, drugs, and violent crimes.

In addition, Tony previously served as an investigator and prosecutor in the St. Louis Circuit Attorney’s Office where he led the conviction integrity unit and handled many types of investigations involving violent crime, police misconduct and civil rights matters. Tony is also a licensed CPA and spent three years at a Big Four accounting firm overseeing multi-million-dollar financial audits and investigations in the U.S. and abroad.

Tony has an extensive background in federal law enforcement as well. He served as an FBI special agent for nearly a decade, initially as a financial crime investigator handling a broad range of white-collar criminal investigations, and later as a computer forensics examiner directing all FBI media examinations in the Eastern District of Missouri.

Tony’s leadership skills and appreciation for collaboration were honed while serving on active duty in the Army as a tank commander and later as a JAG officer in Iraq. He also served as a senior civilian advisor in Afghanistan. Tony is a graduate of Army Airborne, Air Assault, Armor & JAG basic courses, as well as the JAG advanced course.



BRIAN CAMP - Professor Camp earned his BA from Haverford College, his JD from the University of Virginia, his MA from the University of Virginia and his LL.M. from Columbia University. He practiced law for 13 years, the last 8 of which he was a senior docket attorney in the IRS Office of Chief Counsel's Procedure and Administration division right on Constitution Ave. in Washington, D.C. At the IRS Professor Camp received numerous awards, the last one being the 2000 Attorney of the Year for the General Litigation Division. So he wasn't a slouch.

Professor Camp joined the faculty of Texas Tech University School of Law in 2001. Twenty years later Professor Camp has authored over 71 published articles and treatise chapters. He has also written more than 225 substantive blog posts, including his widely read "Lesson From The Tax Court" series, published weekly on TaxProf blog. Professor Camp's scholarship on taxation of cyberspace has taken him to London and Berlin to advise government agencies.

Professor Camp has received recognition for his scholarship. In 2007 and 2010 he was named the Law School's Outstanding Researcher. In 2008, he was awarded the George H. Mahon professorship. In 2010, the Texas Bar Foundation recognized Professor Camp for Best Law Review Article published in Texas. Professor Camp is active in the American Law Institute, and the American Bar Association Section of Taxation where he was honored to have chaired the Individual and Family Taxation Committee. He currently serves on the editorial board of the Practicing Tax Lawyer. He has given over 54 CLE presentations since 2003.



BRIAN CLARK - With a unique background in business law and accounting, Brian Clark guides clients through a broad range of matters that impact their businesses, including tax planning and corporate transactions. He advises clients on the federal income tax consequences of a variety of transactions, including the acquisition and disposition of businesses and assets, structuring joint ventures and partnerships, and business succession planning.

Brian has assisted in structuring numerous private equity transactions, representing both buyers and sellers across several industries, ranging from payment-processing technology and software development to refinery contracting and energy services. He also has substantial experience providing tax and transactional advice to technology companies, as well as structuring joint ventures between for-profit and non-profit organizations.

In addition to his tax planning and transactional practice, Brian advises clients on a variety of corporate and commercial law matters, including corporate governance, choice of entity and asset protection. He also frequently handles Affordable Care Act controversies, including employer shared responsibility payment and penalty assessments.

Brian is licensed to practice law in Texas and Louisiana, and he previously worked as a CPA at a Big Four accounting firm. He is a regular speaker on federal income tax issues at events throughout Texas. Brian can be reached at 469-320-6212 or bclark@grayreed.com.



KYLE COLEMAN - Kyle Coleman is a shareholder in Coleman & Jackson, P.C. in Dallas, Texas. Mr. Coleman's practice concentrates on federal tax related controversy matters, including litigation in Federal District Court, the United States Tax Court, and the Court of Federal Claims. Mr. Coleman also represents taxpayers in Internal Revenue Service audits, appeals, and collection actions.

Mr. Coleman has been admitted to the United States Court of Appeals for the District of Columbia Circuit, Fifth Circuit Court of Appeals Bar, the Northern District of Texas, the Eastern District of Texas, the District of Colorado, and the United States Tax Court. In addition to tax controversy, Mr. Coleman also represents clients in estate and business planning as well as asset protection. His practice includes entity formation, asset transfers, and wills and trusts.

Kyle received a BA in Finance from the University of Central Oklahoma. He earned his J. D. from the Oklahoma City University School of Law and went on to receive his L. L. M. from the Dedman School of Law at Southern Methodist University.

He can be reached at kyle@coleman-jackson.com or by calling him at (972) 810-4380.



Erin Collins is the “voice of the taxpayer” within the IRS and before Congress. Under her leadership, the Taxpayer Advocate Service (TAS), an independent organization within the IRS, helps taxpayers resolve their IRS account issues, advocates on behalf of taxpayers, and works towards systemic change to mitigate taxpayer problems. She joined the Taxpayer Advocate Service in March 2020 to advocate for taxpayers, protect their rights, and work toward improving the quality of taxpayer service and tax administration.

Erin has more than 35 years of experience in tax law, spanning 15 years in the IRS Office of Chief Counsel and 20 years at the accounting firm of KPMG LLP, where she retired in 2019 as the Tax Managing Director in charge of its tax controversy practice for the Western region. As a Special Trial Attorney for the IRS, she was responsible for the development and litigation of high-profile, complex tax cases. Erin was the Industry Counsel for Savings and Loans during the time of the S&L crisis. Over a six-year period, she worked very closely with the Treasury Department, the Commissioner, the Office of Chief Counsel, the Federal Deposit Insurance Corporation and Resolution Trust Corporation. In both 1995 and 1997, she received Chief Counsel’s highest award, the National Litigation Award. In 1993, she received the Western Region’s highest Litigation Award for her outstanding achievements.

At KPMG, Erin represented thousands of individuals, partnerships, small companies, and corporate taxpayers on technical and procedural tax matters. She represented clients in federal examinations and IRS appeals on domestic and international tax issues, including transfer pricing disputes, foreign tax credits, research and experimentation credit claims, net operating loss utilization calculations, restructurings, treaty interpretations, executive compensation, and application of accounting methods. She also has represented several clients before the U.S. Tax Court.

Erin was the co-author of the Practising Law Institute’s IRS Practice and Procedure Deskbook and has spoken frequently on IRS practice, procedure, controversy, and litigation matters before many professional organizations. Before joining TAS, she represented a number of clients pro bono to help them resolve issues with the IRS. She was also a volunteer and board member of a non-profit organization, Step Up, whose mission was to help girls in under-resourced communities to fulfill their potential by empowering them to become confident, college-bound, career-focused, and ready to join the next generation of professional women. “I am proud to advocate for taxpayers’ rights and to work toward improving the taxpayer experience to ensure a fair and just tax administration.”



RANDY CRABTREE, the co-founder and partner of Tri-Merit Specialty Tax Professionals, is a widely followed author, lecturer and podcast host for the accounting profession. Since 2019, he has hosted the bi-weekly "The Unique CPA," podcast, which ranks among the world's 5% most popular programs (Source: Listen Score). You can find articles from Randy in Accounting Today's Voices column, the AICPA Tax Adviser, CPA Trendlines, Intuit Accountants TaxPro Center and he is a regular presenter at conferences and virtual training events hosted by national accounting associations, state CPA societies and other industry associations. Randy is a 2-time finalist for Accounting Today's "Top 100 Most Influential people in Accounting".

In May 2022 Randy was appointed, for a 3-year term, to the Intuit Tax Council. Prior to starting Tri-Merit, Crabtree was managing partner of a CPA firm in the greater Chicago area. He has more than 30 years of public accounting and tax consulting experience in a wide variety of industries and has worked closely with top executives to help them optimize their tax planning strategies.



CLINT DAVIS is with the law firm of Krage & Janvey, LLP in downtown Dallas. He graduated cum laude from the SMU Dedman School of Law in 1980. [Yes, that was before some of you were born.] He was first licensed in Florida as an attorney in 1980 and then in Texas in 1982. He has been a licensed CPA in Texas since 1980. He has been Board Certified in Tax Law by the Texas Board of Legal Specialization since 1988, and he steadfastly refuses to take any more exams.

He has been named as a Super Lawyer, a Top Attorney in Texas by Texas Monthly, one of the Best Lawyers in Dallas by D Magazine and a Top-Rated Lawyer by the Dallas Morning News, all in the tax area.

Clint was an author and discussion leader for 8-hour CPE courses for the Texas Society of CPAs since 1991. [Some of his peers believe that the length of these courses makes him certifiable as well as board certified.]

Clint also speaks before various bar associations and is a frequent presenter and moderator on the Accountants' Continuing Professional Education Network. Clint primarily represents high net worth individuals and closely held businesses with much of his time devoted to tax planning in mergers and acquisitions and charitable organizations.



ROB HUGOS, Attorney and CPA, helps clients and their families with all aspects of general estate planning, including Wills and Living Trusts.

Certain clients benefit from Advanced Planning strategies designed to achieve more complex estate planning, tax, asset protection and business objectives. Advanced Planning clients may use enhanced Living Trust planning, Family Partnerships, Irrevocable Trusts and LLCs. Rob encourages working closely with the client's CPA and other professional advisors to achieve the most from their estate, tax, and business planning.

Rob is licensed by both the Supreme Court of the United States and the Supreme Court of Texas.

Rob is currently a member of the Texas Bar Association, College of the State Bar of Texas, Austin Bar Association, Austin Tax Study Group, Estate Planning Council of Central Texas, Texas Board of Public Accountancy, and American Association of Attorney-Certified Public Accountants.



THOMAS (TOM) KRAMER serves as the acting Director in the Office of Fraud Enforcement (OFE). In this position, he acts as the principal advisor and consultant to the IRS SB/SE Commissioner and Deputy Commissioners on all issues involving fraud enforcement strategic plans, programs, and policy. OFE provides leadership and guidance related to the development and delivery of major activities in support of IRS efforts to detect and deter fraud.

Tom is a participant in the 2021 IRS Executive Readiness Program. He has an MBA in finance from the University of Colorado. Prior to his current assignment, Tom previously served as acting Associate Director, Diversity and Inclusion Division in Equity, Diversity, and Inclusion (EDI), and as acting Director of Innovation Lab 3.0 with Research, Applied Analytics and Statistics (RAAS). Tom started his IRS career as a Revenue Officer and has been an ATAT Revenue Officer, Supervisory Revenue Officer and most recently a Territory Manager in Oakland, California. Tom is passionate about the Fraud Program and upholding fairness for our taxpayers.



BRANDON D. LEWIS is a licensed CPA and CFE. He has conducted complex white-collar fraud and tax evasion investigations for over 20 years with Federal and State government agencies, a Big Four accounting firm, a Fortune 500 company and as an independent advisor. He has conducted many of these investigations as a special agent and forensic accountant, giving him the unique ability to conduct witness and suspect interview, gather digital and documentary evidence, and thoroughly analyze large data sets of accounting, financial and other data sets.

Mr. Lewis has been recognized as a fraud expert by state courts in Arizona and Texas. He has testified as an expert witness in State court and as an investigator and special agent in both State and Federal courts and has been retained as an expert by both plaintiff and defense counsel in civil litigation matters. Mr. Lewis is passionate about fraud prevention and detection and enjoys helping businesses find solutions to their various fraud issues or assisting attorneys with their complex fraud cases and proving or disproving allegations of fraud.



TIMOTHY J. MCCORMALLY is Special Counsel to the IRS Office of Professional Responsibility. He joined OPR in February after seven years as a director in KPMG's National Tax Practice, thirty years with Tax Executives Institute (both as general counsel and executive director), and six years with the predecessor of Eversheds Sutherland. Timothy received his bachelor's degree from the University of Iowa and his law degree from Georgetown University Law Center. He is a frequent speaker and author on topics of tax ethics and professionalism, has published a book of poetry, and served four years on the Internal Revenue Service Advisory Council, including one as Chair of the group.



TIFFANY MORICE- First and foremost, I'm a USAF Veteran who has served three tours overseas. I hold an MBA from Washington State University in Finance. I have been with the service since 2010. I started my career in Field Collection as an RO where I became a Front Line Manager & Territory Manager over HI and LA. I came over to ACS in 2020 as the Senior Manager over the Oakland Call site. I now am the Planning and Analysis Chief for Campus Collection Fresno overseeing four call sites, two paper Operations and a Support Operation.



CHRISTI MONDRIK, attorney, dedicates her practice to resolving state and federal tax controversies and litigation. She is board certified in Tax Law by the Texas Board of Legal Specialization. Ms. Mondrik has handled IRS cases involving substantial corporate, individual and estate taxes. Her state tax experience includes disputes arising under Texas franchise tax, sales and use tax, fuel taxes, severance taxes, motor vehicle sales tax, and other state taxes. Ms. Mondrik is also a CPA.

Ms. Mondrik and her associates represent the firm's state tax clients in administrative and legal proceedings before the Comptroller's office, the State Office of Administrative Hearings and the Texas state courts. They also represent federal tax clients in audits, at the administrative appeals level and in proceedings before the United States Tax Court and the United States District Courts. Ms. Mondrik is licensed to practice in the United States Tax Court, the United States District Court, Western District of Texas, and all of the Texas state courts.

Ms. Mondrik and members of her firm are frequent authors and lecturers on federal tax controversies and state taxation. Ms. Mondrik was the 2019-20 Chair of the State Bar of Texas Tax Section. She has served twice on its governing council and has served as chair and vice-chair of its Tax Controversy, CLE and Solo and Small Firms Committee Committees. After completing her 2010-13 SBOT Tax Section council member term, Ms. Mondrik served as annual meeting committee chair for 2013-14. She was also State Bar Tax Section Leadership Academy co-chair for 2016 -17.

The Texas Society of Certified Public Accountants (TXCPA) awarded Ms. Mondrik the Young CPA of the Year Award for 2009-10 and the 2012 Rising Star Award. She was awarded the 2016-17 Special Recognition Award from the TXCPA Chairman for her work on the Federal Tax Policy Committee and Bylaws Tax Force and the 2017-18 Outstanding Committee Chair Award for chairing the Federal Tax Policy Committee. The Austin Chapter of CPAs awarded Ms. Mondrik the 2015 Distinguished Service Award.

Ms. Mondrik served as chair of the TXCPA Federal Tax Policy Committee from 2016-2018. She also serves on the State Bar of Texas and TXCPA State Taxation Committees. She also served a three-year term on the TXCPA Executive Board. Ms. Mondrik was the 2009-10 President and has served as manager of education and leadership and chair of the Oversight Council of the Austin Chapter of CPAs (now TXCPA Austin). Ms. Mondrik has also served as chair of the TXCPA Texas State Tax Conference Committee and its State Taxation Committee. As chair of the State Taxation Committee, she was a principal drafter of comments submitted by the TXCPA in response to state tax legislation and various administrative rules.

Ms. Mondrik earned her B.B.A. in Accounting and her J.D., with honors, both from the University of Texas at Austin. She has been licensed by the State of Texas since 2001.



HALE E. SHEPPARD is a Shareholder in the Tax Controversy Section of Chamberlain Hrdlicka in Atlanta. He defends individuals and businesses during tax audits, administrative appeals, and Tax Court litigation. Hale has participated in over 150 cases in the Tax Court, District Court, and Court of Appeals. In addition, he has obtained dozens of favorable Private Letter Rulings for clients from the IRS National Office on procedural, tax, and international issues.

Hale obtained five college degrees, including an LL.M. in international law from the Universidad de Chile and an LL.M. in taxation from the University of Florida, earning various scholarships and academic distinctions along the way.

Hale ranks among the most active tax writers in the country, having published over 200 articles in top law reviews and tax journals. Hale has been widely cited as a tax/legal authority in many domestic and foreign journals, inducted into the American College of Tax Counsel, invited to present at major tax conferences, and recognized as a leader in tax disputes for many years by Chambers USA and other respected organizations.



JOSHUA SMELTZER- Board Certified in Tax Law by the Texas Board of Legal Specialization, Joshua Smeltzer is a tax litigator defending clients in tax audits, tax appeals, and litigation in Federal District Court, U.S. Tax Court, the U.S. Court of Federal Claims, and tax issues in U.S. Bankruptcy Court. Joshua's previous work as a litigator for the U.S. Department of Justice provides him with first-hand knowledge of how government lawyers build and litigate tax cases. Based on his impressive track record at the Department of Justice, Joshua received the agency's Outstanding Trial Attorney Award seven times. He also has deep tax litigation experience in federal court, both as a private and government lawyer.

Joshua represents individuals, corporations, partnerships, and estates in a variety of tax issues involving tax reporting for cryptocurrency and foreign bank accounts, captive insurance arrangements, investments in conservation easements, charitable donations, a variety of tax deduction and tax credit disputes, as well as various transactions involving cryptocurrency and blockchain technology. He is often consulted on tax issues arising from significant financial events, such as large financial transactions, litigation settlements, transfers of assets to family limited partnerships or other entities, and tax issues surrounding the sale of business assets or stock.

During his 18-year practice as a tax litigator, his cases have ranged from smaller cases involving six-figure dollar amounts to high-stakes disputes where the amount in controversy totaled hundreds of millions of dollars and, in one case, over a billion dollars. As a respected thought leader in the tax field, Joshua is a regular author and presenter on numerous tax topics and has been called on to provide expert testimony on tax issues in administrative disputes and in court proceedings.



DAVID STUBBLEFIELD - While at the IRS, David served in several positions including Internal Revenue Agent, IRS Training Course Developer and Instructor, Team Member and Team Coordinator involved in Large Case Examinations, Regional Analyst responsibilities over International and Insurance Tax Law Compliance and various IRS National Office assignments. Managerial positions included IRA Group Manager, Appeals Officer, Large Case Group Manager, Examination Branch Chief and Acting Chief, Examination.

After leaving IRS, David received his Enrolled Agent Certification to practice before the I.R.S. He has served as Tax Manager with two CPA firms from December 2000 to the present, being involved in tax preparation, tax planning, IRS controversy cases, auditing, presentations to various tax professional groups and local universities and provided written published articles in various publications.

Education: The University of Texas at Austin, BBA, Major in Accounting
Dave graduated from the University of Texas at Austin with a BBA with a major in Accounting.

Dave has made presentations to various accounting and tax professional groups and has written articles for the Journal of Accounting, Journal of Taxations, Tax Practice and The Tax Lawyer. You may contact David at 214-276-5031 or dstubblefield@dallascpas.com

**TAX ALLIANCE CONFERENCE
CONTINUING PROFESSIONAL EDUCATION
CREDIT FORM**

Dates: June 6, 7 & 8 - 2023

*You have two CPE forms. Please complete both forms and retain **GREEN** copy for your proof of CPE credit earned. Return **YELLOW signed copy** to the registration desk before you leave the conference or mail to the address below:*

Tax Alliance Conference
4695 W University Suite 100
McKinney, TX 75071
Email: t.dempsey@andrecpa.com

Sponsor: Tax Alliance Conference

Program: 2023 Tax Alliance Conference

Print your Name (*As shown on PTIN card*) **EA CPA ATT'Y Other**
Circle Designation **PTIN number**

Address _____ **Email** _____

City _____ **State** _____ **Zip Code** _____

See Class Schedule for a list of Credit Hours and then record your attendance below:

Boot Camp - Tax related ____ (max 4) **Attended Online** ___ **In-Person** ___
June 7 - Tax related ____ (max 8)
June 8 - Tax related ____ (max 6) June 8 - Ethics ____ Professional Responsibility: Latest Developments
affecting the Tax Professional Community (max 2)
Total TAX Hours _____ Total PTIN ETHICS Hrs _____ (Both EAs and CPAs will have 2 hours listed if both hours
attended. CPAs 2 hours will count as Technical hours.) **TOTAL HOURS ATTENDED** _____ (max 20)

I certify that I attended the sessions yielding the TIME above.

EA's attending all Sessions for the 3 days, you will have 18 hrs of Tax and 2 hrs of Ethics
CPA's attending all Sessions for the 3 days, you will have 20 hrs of Tax listed as 18 Tax 2 PTIN hours.

Signature of Attendee

Notice:

Ethics Credit: If attended - EAs .. 2 hrs Attorneys .. 2.00 hrs CPAs .. None


Please indicate time attended. (Consultation time does not qualify for CPE)

Regardless of your designation and attend all 3 days, you will mark the above as 18 tax hours and 2 PTIN
Ethic hours to be reported to the IRS.

Everyone:

Please be sure to sign in 1st thing in the morning & sign out when you leave.

We need to have a record of your attendance in order to prove your credit hours!



Kyle Coleman , President

IRS #A9EFN-T-00036-23-I (In-person) #A9EFN-T-00036-23-O (Online) Tax Credit 18 Hour
IRS#A9EFN-E-00037-23-I (In-person) #A9EFN-E-00037-23-O (Online) Ethics Credit 2 Hours
State Bar of TX Course #174197688 TX State Board of Public Accountancy #009389

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affecting the Tax Professional Community (max 2)
Total TAX Hours _____ **Total PTIN ETHICS Hrs** _____ (Both EAs and CPAs will have 2 hours listed if both hours attended. CPAs 2 hours will count as Technical hours.) **TOTAL HOURS ATTENDED** _____ (max 20)

I certify that I attended the sessions yielding the TIME above.

EA's attending all Sessions for the 3 days, you will have 18 hrs of Tax and 2 hrs of Ethics
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Signature of Attendee

Notice:

Ethics Credit: If attended - EAs .. 2 hrs Attorneys .. 2.00 hrs CPAs .. None


Please indicate time attended. (Consultation time does not qualify for CPE)

Regardless of your designation and attend all 3 days, you will mark the above as 18 tax hours and 2 PTIN Ethic hours to be reported to the IRS.

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State Bar of TX Course #174197688 TX State Board of Public Accountancy #009389

IRS Evaluation Form

Continuing Education Providers must provide a means for evaluating program content to students. Your participation is voluntary, but would be appreciated and helpful to us in improving future programs.

Evaluation Form	
Full Name of CE Provider: Tax Alliance Conference	
IRS Issued Provider Number: A9EFN	
Program Name: Tax Alliance Conference Federal Tax	
IRS Issued Program Number: A9EFN-T-00036-23-O (Online) A9EFN-T-00036-23-I (In-person)	
Date(s) Program was Completed: June 6-8, 2023	
Name of Participant (optional*):	
Instructions: Please comment on all of the following evaluation points for this program and assign a number grade, using a 1-5 scale, with 5 being the highest.	
1. Were stated learning objectives met?	
2. Were program materials accurate, relevant and did they contribute to the achievement of the learning objectives?	
3. Was the time allotted to learning adequate?	
4. Were the facilities / equipment appropriate?	
5. Were the handout materials satisfactory?	
6. Were the audio and video materials effective?	
7. If applicable, were individual instructors knowledgeable and effective?	
Additional comments:	
1. How was the food?	
2. How could the speakers improve?	
3. What topics would you like covered in future seminars?	
4. Why did you decide to attend this conference?	
5. How many years have you attended the TAC? 1 st Year 2-5 Years 5 + Years	
6. How did you hear about the TAC? (Circle all that apply)	
Mailed Brochure Email Other Friend or Co-Worker Chapter Newsletter	
<ul style="list-style-type: none"> • By providing your name you give the Tax Alliance Conference permission to use your 	
Comments and /or name in future marketing material unless you opt-out by checking here. _____	
THANK YOU	

IRS Evaluation Form

Continuing Education Providers must provide a means for evaluating program content to students. Your participation is voluntary, but would be appreciated and helpful to us in improving future programs.

Evaluation Form	
Full Name of CE Provider: Tax Alliance Conference	
IRS Issued Provider Number: A9EFN	
Program Name: Professional Responsibility: OPR will review the latest developments affecting the tax professional community.	
IRS Issued Program Number: A9EFN-E-00037-23-O (Online) A9EFN-E-00037-23-I (In-Person)	
Date(s) Program was Completed: 06/08/23	
Name of Participant (optional):	
Instructions: Please comment on all of the following evaluation points for this program and assign a number grade, using a 1-5 scale, with 5 being the highest.	
1. Were stated learning objectives met?	
2. Were program materials accurate, relevant and did they contribute to the achievement of the learning objectives?	
3. Was the time allotted to learning adequate?	
4. Were the facilities / equipment appropriate?	
5. Were the handout materials satisfactory?	
6. Were the audio and video materials effective?	
7. If applicable, were individual instructors knowledgeable and effective?	
Additional comments:	

TAX ALLIANCE CONFERENCE

PARTICIPANT EVALUATION

Please rate the effectiveness of the speaker(s) & the materials
5=Excellent 4=Very Good 3=Average 2=Fair 1=Poor

- A. Was the speaker informative?
- B. How well were your Questions answered?
- C. How do you rate the written material?

WEDNESDAY, JUNE 7, 2023	A	B	C
Erin Collins: Taxpayer Advocate Presentation			
LaTonya Bacon: Data Security			
Hale Sheppard: Voluntary Disclosure Program: Key Aspects and Its Evolution			
Randy Crabtree R&D Capitalization Rules – What you need to know.			
Clint Davis: Understanding LLC & Partnership Basis			
Bryan Camp: Dealing with Erroneous Refunds			
Kyle Coleman: US Tax Court Practice & Procedure			
Tiffany Morice: ACS Updates			
THURSDAY, JUNE 8, 2023			
Thomas Kramer, IRS: Office of Fraud Enforcement			
Bryan Camp: Understanding the Assessment Statute Expiration Date			
Timothy McCormally: Office of Professional Responsibility			
Joshua Smeltzer			
Brian Clark Implementation and Government Enforcement of Block Chain Technology and Digital Assets			
David Stubblefield: IRS Appeals – Writing A Protest			
Christi Mondrik			
Rob Hugos Succession Planning for Family Businesses			

Name (optional): _____

TAX ALLIANCE CONFERENCE
PARTICIPANT EVALUATION

Please rate the effectiveness of the speaker(s) & the materials

5=Excellent 4=Very Good 3=Average 2=Fair 1=Poor

- A. Was the speaker informative?
- B. How well were your Questions answered?
- C. How do you rate the written material?

BOOT CAMP		TUESDAY, JUNE 6, 2023		A	B	C
	A Criminal Investigations Presentation					
	Tony Box					
	Brandon Lewis					
	Dan Baucum: LLCs as S Corps					

Name (optional) _____

June 6, 2023	Tax Alliance Conference Bootcamp	Virtual/In-Person
Time	Representation	
2:00 - 2:10	Opening Remarks Kyle Coleman	
2:10- 3:50	CI Tony Box & Brandon D. Lewis	I
3:50 - 4:10	Break	
4:10 - 5:00	CI Tony Box & Brandon D. Lewis	I
5:00 - 5:50	LLCs as S Corps: Advantages, Challenges and Busts Dan Baucum	I


June 7, 2023	Tax Alliance Conference	Virtual/In-Person
8:00 - 8:15	Opening Remarks Vendors	
8:15 - 9:05	Taxpayer Advocate Erin Collins	V
9:05 - 9:55	Data Security LaTonya Bacon	I
9:55 - 10:15	Break	
10:15 -11:05	New Comprehensive IRS Voluntary Disclosure Program: Key Aspects and Its Evolution Hale Sheppard	V
11:05 - 11:55	R & D Capitalization Rules - What You Need to Know. Randy Crabtree	V
11:55 - 1:15	Lunch	
1:15 - 2:05	Understanding LLC & Partnership Basis Clint Davis	I
2:05 - 2:55	Dealing With Erroneous Refunds - Errors Happen Bryan Camp	I
2:55 - 3:15	Break	
3:15 - 4:05	US Tax Court Practice & Procedure Kyle Coleman	I
4:05 - 4:55	ACS Updates Tiffany Morice - IRS	V

June 8, 2023	Tax Alliance Conference	Virtual/In-Person
8:00 - 8:15	Opening Remarks Vendors	
8:15 - 9:05	Office of Fraud Enforcement Thomas Kramer, IRS	V
9:05 - 9:55	Understanding the Assessment Statute Expiration Date Bryan Camp	I
9:55 - 10:15	Break	
10:15 -11:55	Office of Professional Responsibility Timothy McCormally	V
11:55 - 1:15	Lunch	
1:15 - 2:05	Implementation and Government Enforcement of BlockChain Technology and Digital Assets Joshua Smeltzer & Brian Clark	I
2:05 - 2:55	IRS Appeals - Writing A Winning/Effective Protest David Stubblefield	I
2:55 - 3:05	Break	
3:05 - 4:45	Succession Planning for Family Businesses: State, Federal and Estate/Gift Tax Considerations Christi Mondrik & Rob Hugos	I

What To Do When The IRS Comes Calling

By Anthony Box

WHAT TO DO WHEN THE IRS COMES CALLING



Are you
Ready?

ACCOUNTANT DISCLOSURE OF CONFIDENTIAL INFORMATION

- Given the confidentiality obligations, how should an accountant respond to non-compliance with laws and regulations and when, if ever, should the accountant disclose confidential information?



ACCOUNTANT DISCLOSURE OF CONFIDENTIAL INFORMATION

- The rule precluding disclosure of confidential information by a CPA relating to a crime operates similarly to the Rules of Professional Conduct governing lawyer disclosure of confidential information.
- A CPA may disclose confidential information “to state or federal authorities when the CPA concludes in good faith based upon professional judgment that a crime is being or is likely to be committed.”
 - Plain language of the rule only contemplates ongoing or future criminal conduct.
 - The language of the rule does not permit a CPA to disclose confidential information relating to past, or already consummated crimes.

ACCOUNTANT DISCLOSURE OF CONFIDENTIAL INFORMATION: SUMMARY

- CPAs owe their clients and/or employers a duty of confidentiality.
- The rules discussed do permit disclosure in certain circumstances, but do not require disclosure in most instances.
- CPAs should not disclose confidential information relating to previous crimes or non-compliant conduct unless required to do so by law or in response to certain investigative or disciplinary actions.
- CPAs may disclose confidential information in instances of future or ongoing illegal activity or noncompliance.



HOW TO AVOID
BECOMING AN
UNWITTING ACCOMPLICE
TO FRAUD

WILLFUL BLINDNESS

- Guiding principle in the criminal law about not becoming an unwitting accomplice to fraud is the concept of “willful blindness.”
- “The willful blindness instruction allows the jury to impute the element of knowledge to the defendant if the evidence indicates that he purposely closed his eyes to avoid knowing what was taking place around him.” *United States v. Schnabel*, 939 F.2d 197, 203 (4th Cir. 1991).
- To avoid criminal liability for helping your client commit fraud, keep your eyes open and look for red flags of fraud.
- When you see indirect indicia of fraud, look for more indicators.
- Start to ask questions of your client and others involved.



RED FLAGS

- What do I mean when I talk about “red flags” indicating possible fraud? What do you look for?
- In the context of your professional career, you have developed an instinct for what seems authentic and what does not. If you are a tax preparer, for example, if documents that a client is providing to you normally look a certain way, but your client’s documents look different, talk to the client further. Does the letterhead look odd? Does the signature look like it was pasted? Have a discussion.



HANDLING CLIENT FINANCES AND TRUST ACCOUNTS

GUIDANCE

- Do not play games with funds received from clients.
- Keep your money separate from the client's money!





SUMMONS

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SUMMONS

**Financial Records
Summons**

In the matter of _____
Internal Revenue Service (Identify Evidence) **SMALL BUSINESS** (page 1 of 1)
Periods: Form 990 for the quarterly periods ending September 30, 2012, March 31, 2013, June 30, 2013, and December 31, 2013

To: _____
The Commissioner of Internal Revenue
At: _____

You are hereby notified and required to appear in court at _____ or _____ in front of the Tax Court, 1300 Northpointe Drive, Montgomery, Alabama 36104, on the _____ day of _____, 2014, at 10:00 o'clock a.m. for the purpose of the production of financial records as described in this summons and to answer to the best of your knowledge and belief the questions posed by the evidence described in this summons. Failure to appear and answer to the best of your knowledge and belief the questions posed by the evidence described in this summons may result in the imposition of penalties and interest on any tax due. Failure to appear and answer to the best of your knowledge and belief the questions posed by the evidence described in this summons may also result in the assessment of a civil penalty under Section 7445 of the Internal Revenue Code. Failure to appear and answer to the best of your knowledge and belief the questions posed by the evidence described in this summons may also result in the assessment of a criminal penalty under Section 7201 of the Internal Revenue Code.

Bank signature card of (Identify Name) _____
with file # _____

Deposit withdrawal (Daily) slips _____
for the period _____ to _____

Bank statements of (Identify Name) _____
for the period _____ to _____

Cancelled checks saved electronically by taxpayer (Identify Name) _____
with file # _____

Loan applications, agreements, and related records, including business personal lines of credit, established or entered into by or in effect regarding (Identify Name) _____
for the period _____ to _____

Do not write in this space

Business address and telephone number of IRS office to which you are to appear:
1425 RIVERSIDE DRIVE, LITTLEVILLE, AL 36043 _____

Place and time for appearance at: 6125 HILSBROOK DRIVE, MONTGOMERY, AL 36106
on the _____ day of _____, 2014 at 10:00 o'clock a.m.

IRS
Under authority of the Internal Revenue Service the _____ day of _____, 2014

Special Agent in Charge _____
Revenue Officer _____
Group Manager _____

Part 1099 be given to recipient

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SEARCH WARRANTS

- What is a search warrant?
- Contact designee
- Identification
- Providing consent
- On-site interviews



RESPONDING TO THE IRS



MANAGING THE LOGISTICS OF AN IRS REQUEST OR SEARCH WARRANT

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15



WHAT NOT TO DO

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16

In the Matter of the Search of _____)
(Briefly describe the property to be searched)
or identify the person by name and address)
_____) Case No. _____)
_____)
_____)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(Identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal *(Identify the person or describe the property to be seized):*

YOU ARE COMMANDED to execute this warrant on or before _____ *(not to exceed 14 days)*
 in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____
(United States Magistrate/Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*
 for _____ days *(not to exceed 30)* until, the facts justifying, the later specific date of _____

Date and time issued: _____ Judge's signature _____
City and state: _____ Printed name and title _____



TAKEAWAYS

LLCs as S Corps: Advantages, Challenges, and Busts

By Dan G. Baucum

LLCs as S Corps

Advantages, Challenges & Busts

Dan G. Baucum

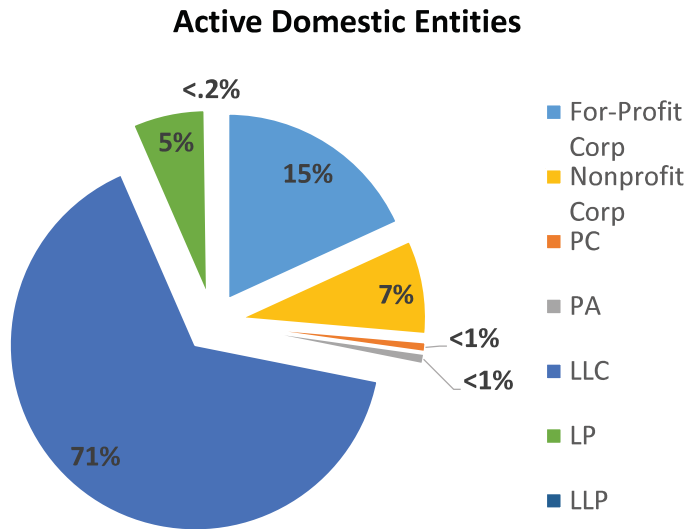
Ferguson Braswell Fraser Kubasta PC
2500 Dallas Parkway, Suite 600
Plano, TX 75093
(972) 378-9111
dbaucum@fbfk.law
www.fbk.law

Texas Business Entity Formations

	<u>2021</u>	<u>2022*</u>
For-Profit Corporations	25,089	23,083
Professional Corporations	565	662
Professional Associations	254	227
Limited Liability Companies	350,152	351,055
Limited Partnerships	5,721	4,636
Limited Liability Partnerships (initial registrations)	478	446

SOS Census January 1, 2023*

For-Profit Corp	358,239
Nonprofit Corp	173,394
Prof. Corp	16,789
Prof. Ass'n	17,181
LLC	1,740,308
LP	126,317
LLP	3,959



Advantages & Disadvantages

LLCs vs S Corps

Advantages of LLCs

- Flexibility –
 - Multi-member LLCs taxed as partnerships have flexibility in types of owners, businesses, and in tax allocations and cash distributions.
 - Extracting appreciate assets on tax-free basis is easier than corporation
 - Non-equity owners can share in the profits (profits interests).
- State Law Charging Order-
 - Gives added protection to entity that creditors of equity owners can't become members or take control.
- Avoids Corporate Level Tax-
 - No corporate level tax or adverse formation tax consequences.

Disadvantages of LLCs

- Multi-member LLCs are taxed as partnerships unless they elect to be C Corps or S Corps-
 - LLC governance documents and partnership tax treatment requires complex provisions.
- LLCs cannot take advantage of the tax-free organization provisions.
- Equity options and other retirement and compensation benefits are less flexible than for corporations.

Advantages of S Corps

- Tax Accounting Simplicity-
 - One Class of Stock leads to straight-forward tax return preparation compared to LLCs taxed as partnerships.
- Employees vs Partners-
 - Owners of S Corps can be W-2 employees whereas owners of LLCs (partnerships) cannot.
- Manage Employment Tax Liability-
 - Opportunity to reduce employment tax liability in some instances.

Disadvantages of S Corps

- Limited flexibility as to capital structure and eligible shareholders
- S Corps can only have a single class of stock
 - Cannot split capital and profits interests like partnerships
- Many types of persons and entities cannot be S Corp shareholders
- Former C Corps have build-in gains tax issues and passive income tax issues
- Buyers generally prefer to buy LLCs over S Corps

The care and feeding of S Corps

Eligibility, Elections, Terminations, Taxation and Sales

S Corp Eligibility Requirements

- An S Corp cannot have more than 100 shareholders
- Shareholders must be individuals with certain exceptions (certain trusts, estates, and tax-exempt entities)
- Shareholders cannot be foreign
- An S Corp must have a single class of stock
- An S Corp cannot be an ineligible corporation (certain financial institutions, insurance companies or DISCs)

S Corp Elections

- An eligible entity can make an S Corp election by filing IRS Form 2553
 - Must file within 2 months and 15 days after entity formation or beginning of its tax year or any time during the preceding tax year.
- Election is not a taxable event.
- Should a C Corp make an S election, a snapshot is taken of each asset, and the excess of the fair market value of that asset over its tax basis is “built-in gain” that will be taxed at the corporate level if the asset is sold within 5 years of the election. The gain is taxed once at the corporate level and then the net gain (built-in gain less corporate level tax) is passed through to the shareholders and taxed again—the so-called C Corp “double tax”).

S Corp Terminations

- Failure to adhere to eligibility requirements will cause its S election to terminate
- Termination is effective on and after the terminating event

Example: Buyer is a C corporation that purchases an S corporation. Buyer is not an eligible shareholder, so the S election terminates on the date of the purchase. The S Corp becomes a C Corp on the date of the purchase.

Taxation of S Corporations

- S Corps pass through items of income and loss to their shareholders and generally are not subject to tax
 - Corporate level tax on built-in gains and passive income if C Corp previously
 - S Corp stock basis adjustment and “accumulated adjustments account” ensures no double tax (except when earnings & profits exist from C Corp history)
 - Distributions in excess of shareholder’s basis in S Corp shares will be taxable as capital gain (corporate debt does not increase basis in stock like in partnerships)
- S Corps can have a corporate subsidiary (not corporate shareholder)
 - Wholly-owned corporate subsidiary can elect to be Qualified Subchapter S Subsidiary that is a disregarded entity

S Corp Sales and Distributions

- Sale of S Corp stock generally results in capital gains tax to the owners and no tax to the corporation itself
- Gains from the sale of S Corp assets generally results in gains passed through to the shareholders and taxed at the shareholder level; no gain is taxed to the corporation (unless “Built-In Gains” tax applies)
- Distribution of appreciated property by the corporation to its shareholders triggers gain on any excess of the fair market value of the asset over its tax basis, which is passed through to the shareholders and taxed at the shareholder level; no corporate level tax unless “Built-In Gains”

LLCs as S Corps

Can LLCs be S Corps and Should they be S Corps

Can An LLC be a S Corp

- LLCs are eligible entities that may elect to be taxed as an S Corp
 - The election is actually two simultaneous elections: (i) an election to be taxed as a C Corp, and (ii) an election that the C Corp be taxed as an S Corp
 - IRS Form 2553, Election by a Small Business Corporation
- If the LLC is newly formed, and the election is made within two months and 15 days of its formation, then the entity is treated as an S Corp from its date of formation
- If the LLC has operated as a partnership previously, and then elects to be taxed as an S Corp, the LLC is treated as if it dissolved and distributed the assets to its members, who then contributed the assets to the new S Corp effective on the first day of its taxable year (or the next taxable year where applicable).
 - This could result in a taxable event upon the dissolution or upon the contribution; careful planning is needed.

Should an LLC Become an S Corp

PROS -

- Employment Tax relief in some instances
- Simplicity in tax accounting and tax reporting (compared to partnerships)

CONS -

- Second Class of Stock causes a lot of busts
- Buyers don't want to buy S Corps in many instances

Employment Taxes

- Income generated conducting a sole proprietorship or through a wholly-owned limited liability company (LLC) is subject to both income tax and self-employment tax. The self-employment tax is imposed on 92.35% of self-employment income at a 12.4% rate for social security up to the social security maximum (\$147,000 for 2022; \$160,200 for 2023) and at a 2.9% rate for medicare. An additional 0.9% medicare tax is imposed on income exceeding \$250,000 for married couples (\$125,000 for married persons filing separately) and \$200,000 in all other cases. No maximum tax limit applies to the medicare tax. If a business is conducted as a partnership in which the taxpayer is a partner, in addition to income tax taxpayer would be subject to the self-employment tax on your distributive share of the partnership's income. On the other hand, if you conduct your business as an S corporation taxpayer will be subject to income tax, but not self-employment tax, on taxpayer's share of the S corporation's income. **IRS requires that the S corporation pay taxpayer reasonable compensation for taxpayer's services to the S corporation. If not, IRS may treat a portion of the S corporation's distributions to taxes as wages and impose social security taxes on the deemed wages. [Emphasis Added]**

• Checkpoint Source: Using S corporations to reduce self-employment income
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S Corp Reasonable Compensation

- Reasonable compensation should be the amount that unrelated employers would pay for comparable services under like circumstances.
- Example: S corp pays annual salary to sole shareholder accountant of \$24,000 along with dividends of \$320,000 over two years resulted in recharacterization of part of dividend as compensation. Part of dividend is salary of over \$91,000. David E. Watson PC, 714 F Supp 2d 954 (follow on case 668 F3d 1008 affg 757 F Supp 2d 877. *See also* Rev Rul 74-44 and Joseph Radtke, 895 F2d 1196, aff'd 712 F Supp 143.

Reasonable Salary Factors to Consider

- (1) the shareholder was a highly qualified accountant with an advanced degree and nearly 20 years of experience;
- (2) he worked 35–45 hours per week as **one of the primary earners** in a successful firm;
- (3) the firm had over \$5 million in gross revenue over the two-year period at issue;
- (4) a \$24,000 salary was unreasonably low compared to similarly situated accountants;
- (5) the \$24,000 salary was exceedingly low when compared to the dividends received.
- **Capital was a material income producing factor** (Compare Radtke case sole shareholder, only significant employee)

TAX Avoidance and evasion explained



*"I deal with tax avoidance - **he** deals with tax evasion."*

S Corp Busts

The downside of S Corp status

Second Class of Stock Busts

- LLC elects to be taxes as an S Corporation.
- Company agreement contains typical partnership tax provisions boilerplate language requiring liquidating distributions to be made in accordance with positive capital account balances.
- Provision is incompatible with section 1361 requirement that S corporations confer identical rights in distributions and liquidation
- Can get IRS 9100 relief but new Rev Proc 2022-19 doesn't help.

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Treasury regulations

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"Tax Lawyer of the Year!"
I'd like to thank the IRS, without
whose incomprehensible regulations
I wouldn't have a job.

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S Corps: Stock Sale or Asset Sale

One more important aspect to choosing an S Corp

Considerations: Sellers and Buyers

- Considerations for Seller
 - Character of After-Tax Proceeds
 - Stock sale is capital gains.
 - Some assets purchased directly could trigger ordinary income
 - Stock sale avoids Built-In Gains tax or inside-outside basis differential for S Corp shareholders
 - Roll over equity? Asset sale may be impractical (not impossible) if roll over is not pro rata
- Considerations for Buyer
 - Purchasing an S Corp's shares requires that the buyer be an eligible shareholder to avoid terminating the S Corp election resulting in acquiring target as a C Corp (double tax);
 - Buyers often desire flow-through entities (*i.e.*, LLCs) as acquisition targets.
 - Asset basis step-up is important to buyer; asset sale required.
 - Cost of acquiring assets is higher than acquiring stock.
 - Incremental additional cost of asset sale may result in downward adjustment to price

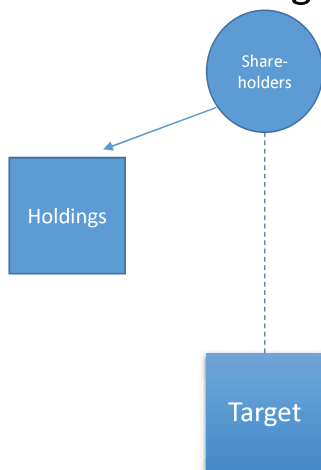
Alternatives to Asset Sales by S Corps

- Section 338(h)(10)/336(e) deemed asset sale by S Corp for tax purposes
 - Buyer must acquire 80% or more of the S Corp (“Target”) stock for Target to be taxed as if it sold its assets to a new corporation owned by Buyer.
 - Basis step-up (deemed asset sale) and capital gains/ordinary income tax for Seller as if asset sale
 - Saves cost of transferring assets in real asset sale. New target is liable for built-in gains tax.
 - Only effective if S Corp election is valid at time of sale. Otherwise, double tax to sellers (C Corp seller)
- S Corp Target drops down as Q Sub and converts to LLC through “F reorganization”
 - Seller forms new S Corp (Holdings) that owns 100% of Target S Corp as Q Sub (disregarded entity of Holdings), which converts to LLC.
 - Buyer buys Target’s LLC equity from Holdings or Target merges into Buyer or LLC subsidiary of Buyer.
 - Sale of Target LLC’s (disregarded entity) equity is treated as asset sale by Holdings.

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F Reorganization Sale – Slide One

Create New Holdings (S Corp)

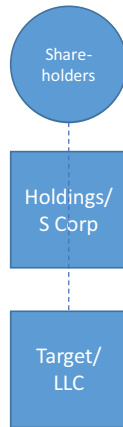


Contribute Target Equity to Holdings/ Elect Q Sub status(disregarded)

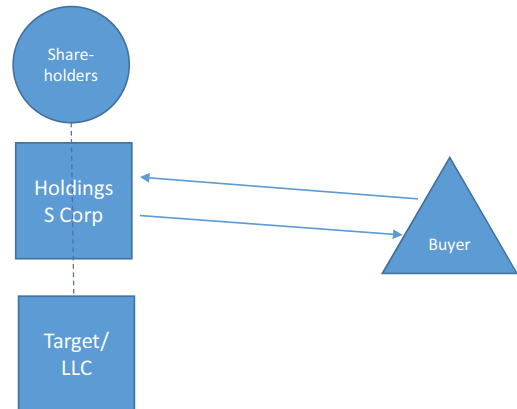


F Reorganization Sale – Slide Two

- Target Elects LLC (Disregarded)

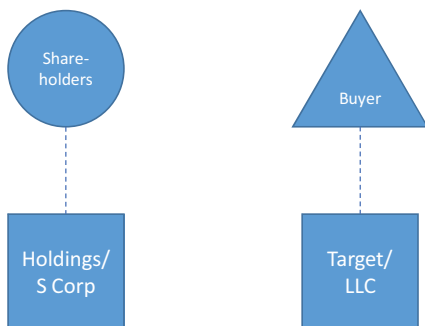


- Target LLC Equity Purchased by Buyer from Holdings

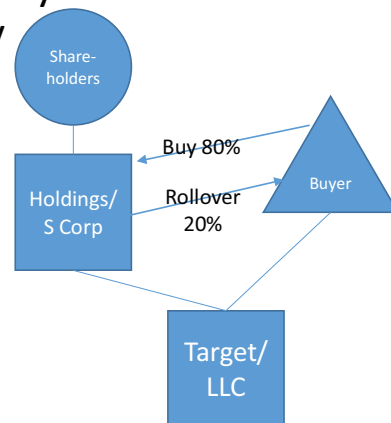


F Reorganization – Slide Three

- Buyer Purchases 100% Equity



- Seller (Holdings) Contributes 20%/Buyer Purchases 80% Equity



Thank You for your attention!

- **Disclaimer:**

This presentation was prepared and presented by Dan G. Baucum of Ferguson Braswell Fraser Kubasta PC solely for informational purposes and does not constitute legal advice.