

# Tax Manual For Choosing The Best Business Entity

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## CHAPTER 1

### BASICS OF BUSINESS TAXATION

#### § 1.1 Recordkeeping and Kinds of Supporting Documents

#### § 1.2 Supporting Documents

- A. Types of Records and Checklists
- B. Amount Paid
- C. Expenses
- D. Business Assets Such as Machinery and Furniture
- E. Journals and Ledgers
- F. Travel, Transportation, Entertainment, and Gift Expenses
- G. Employment Taxes

#### § 1.3 Discussion and Chart Showing Periods of Retention of Business Records

- A. I.R.C. Section 6501 (limitation on assessment and collection)
- B. Substantial Omission of Income Section 6501(e)

#### § 1.4 Fundamentals of Tax Accounting Periods

Required Tax Year—Reg. Section 1.441(b)(2)

#### § 1.5 Tax Year

- A. Calendar Year
- B. Fiscal Year
- C. Change of Accounting Period—I.R.C. Section 442
- D. Short Tax Year
- E. Partnerships, S Corporations, and Required Years
- F. Partnerships, S Corporations, and Required Years Exception
- G. Election of Taxable Year Other Than Required  
Taxable Year—I.R.C. Section 444
- H. Partnerships and LLC's Electing Partnership Entity Status Other Than Required Taxable Year - Summary
- I. Trusts and Estates
- J. Required Payment Under Section 444
- K. Business Purpose
- L. Fifty-Two or Fifty-Three-Week Tax Year

#### § 1.6 Fundamentals of Tax Accounting Methods

- A. Cash Basis Income
- B. Constructive Receipt

- C. The *Court Holding Co.* Case,
- D. Cash Basis Deduction

### **§ 1.7 Accrual**

- A. General Rule for Taxable Year of Inclusion.
- B. Special Rule in Case of Death
- C. Taxable Year of Deductions
- D. Economic Performance
- E. Inventories
- F. Merchandise
- G. Valuation
- H. Valuation Tests
- I. FIFO Method
- J. Uniform Capitalization Rules
- K. Changing Accounting Methods

### **§ 1.8 Identification Numbers**

- A. Penalties
- B. Backup Withholding

### **§ 1.9 Requirements For Return**

- A. Business Taxes
  - 1. Income Tax
  - 2. Self Employment Tax
  - 3. Employment Taxes
  - 4. Excise Taxes
- B. Excise Tax Forms

### **§ 1.10 Checklist for Business Entity Taxes**

- A. Sole Proprietorships
- B. Partnerships
- C. Individual Partners
- D. Corporations
- E. S Corporations
- F. S Corporations Shareholders
- G. Limited Liability Company

### **§ 1.11 Guide To Information Returns**

- A. Business Credits
- B. I.R.C. Section 46
- C. Credit and Form Number

### **§ 1.12 Federal Tax Deposits**

- A. Quarterly Federal Tax Return—Form 941
- B. Payment Dates/Semi-Weekly Periods and Deposit Date
- C. Making Deposits
- D. Special Deposit Rules For Other Withheld Taxes

### **§ 1.13 Penalties**

## **CHAPTER 2**

### **SOLE PROPRIETORSHIP**

#### **§ 2.1 Check the Box**

## **§ 2.2 Basic Definition**

## **§ 2.3 Tax Formation**

- A. Ownership Requirements
- B. Taxes and Filing Chart
- C. Self-Employment Tax
  - (1) Termination
  - (2) Liability
  - (3) Consequences of Using the Sole Proprietorship for Asset Protection
  - (4) Tax Treatment
  - (5) Advantages and Disadvantages
- D. Individual Retirement Plans (IRA)
- E. Individual Roth Retirement Plans
- F. Contributions
- G. Converting From a Traditional IRA to a Roth IRA
- H. Chart Comparison of Traditional IRAs and Roth IRAs

## **§ 2.4 Nontax Factors**

- A. Control and Management
- B. Owner's Liability
- C. Burden of Filing Requirements

## **§ 2.5 Tax Basis**

- A. Purchase
- B. Treatment of Liabilities in Computing Basis
- C. Holding Period

## **§ 2.6 Income and Expenses of Proprietorship**

- A. Types of Income
- B. Capital Gains
- C. Section 1231 Gains
- D. Interest on Government Obligations
  - 1. Wholly Tax-Exempt Interest
  - 2. Partially Tax-Exempt Interest
  - 3. Fully Taxable Interest
  - 4. Obligations Bought at a Discount; Bonds Bought When Interest Defaulted or Accrued
  - 5. Bonds Sold Between Interest Dates; Amounts Received in Excess of Original Issue Discount; Interest on Life Insurance
- E. Dividends
  - 1. Dividends in Kind; Stock Dividends; Stock Redemptions
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- F. Debt Cancellation Proceedings Under Bankruptcy Act

## **§ 2.7 Business Expenses**

- A. Ordinary and Necessary Expenses Requirement
- B. Capital Expenses
- C. Home Office Expenses
  - 1. Regular Use
  - 2. Trade of Business Use
  - 3. Principal Place of Business
- D. Hobby and Other Not-for-Profit Activities
- E. Travel and Entertainment Expenses
- F. Tax Home
  - 1. More Than One Tax Home

- 2. Tax Home and Family Home Differentiated
- G. Deductible Travel Expense
- H. Checklist for Travel, Transportation, Entertainment, and Gift Expenses
- I. Recordkeeping
- J. Cruise Ships
- K. Meals
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## **§ 2.8 Depreciation Deduction**

- A. I.R.C. Section 167 Depreciation
- B. Cost as Basis
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  - 2. Basis Other Than Cost
- C. Adjusted Basis for Determining Gain or Loss—I.R.C. Section 1011
- D. Basis Adjustment for Depreciation Allowed or Allowable
- E. Most Used Depreciation Methods
  - 1. Applicable Conventions
  - 2. Declining Balance Method
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  - 4. Straight Line Method
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- F. Using the Applicable Convention
- G. GDS Classification
- H. Recovery Periods Under ADS
- I. The Mid-Month Convention
- J. The Mid-Quarter Convention
- K. The Half-Year Convention
- L. Listed Property
- M. Automobile Limits and Rules
- N. Section 179 Deduction and Bonus Depreciation Expense Deduction
- O. S Corporation Section 179 Deduction Limitations
  - 1. Carryover of Disallowed Deduction
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  - 3. Election to Exclude Property From Special Depreciation Allowance
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  - 5. Recovery

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- A. Section 165 Losses
- B. At Risk Losses
- C. Section 465 Deductions Limited to Amount at Risk
- D. Passive Activities Losses Or Credits—I.R.C. § 469
- E. Trade or Business Activities
  - 1. Nonpassive Activities
  - 2. Material Participation
- F. Net Operating Losses
- G. Carrybacks and Carryovers
- H. American Recovery and Reinvestment Act of 2009—Net Operating Loss Changes
- I. Election to Waive Carryback
- J. Chart of Applicable Tax Forms for Proprietorship and Usual Due Dates
- K. Checklist for Terminating Proprietorship (going out of business)

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- A. Check the Box
- B. Tax Return Requirements For Partnerships
- C. Chart Summarizing Taxes and Return Requirements For Partnerships

**§ 3.2 Importance of Partnership Agreement**

- A. Definitions
- B. Partnership Agreement Effect on Partner Share
- C. Partnership's Special Allocations and Substantiality
- D. The Economic Effect on Nonrecourse Liabilities

**§ 3.3 General Partnership Agreements**

- A. Introduction
- B. Checklist for the Articles of Partnership
- C. Agreement Dissolving Partnership
- D. Checklist for Agreement Dissolving Partnership

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- A. Introduction
- B. The Limited Liability Partnership Agreement

**§ 3.5 Limited Partnership**

- A. Introduction
- B. The Limited Partnership Agreement

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- A. Family Partnership—I.R.C. Section 404(e)
- B. Husband-Wife Partnership

**§ 3.7 Partnership Tax Year**

- A. Calendar Year
- B. Fiscal Year
- C. Change of Accounting Period—I.R.C. Section 442
- D. Short Tax Year
- E. Partnerships and Required Years
- F. Partnerships and Required Years Exception
- G. Election of Taxable Year Other Than Required Taxable Year—I.R.C. Section 444
- H. Partnerships Electing Partnership Entity Status Other Than Required Taxable Year-Summary
- I. Required Payment Under Section 444
- J. Business Purpose
- K. Fifty-Two or Fifty-Three-Week Tax Year
- L. Partnership Versus a Separate Partner's Elections

**§ 3.8 Computation of Partnership Income**

- A. Separately Stated Items for Partners of Income and Credits
- B. Character of Items Constituting Distributive Share
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- A. Tax Definition
- B. Chart for Tax Returns Requirements for C Corporations
- C. Formation
- D. Tax Consequences of Formation
- E. Small Business or Section 1244 Stock

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- A. Nontax Considerations
- B. Burden of Filing Requirements
- C. Ownership Requirements
- D. Liability of Owners
- E. General Rule for Tax Basis
- F. Carryover Basis and/or Substitute Basis

**§ 4.3 Income and Expenses of Corporation**

- A. Types of Income
- B. Capital Assets
- C. Section 1231 Gains

**§ 4.4 Business Expenses**

- A. Ordinary and Necessary Expense Requirement
- B. Capital Expenses

**§ 4.5 Depreciation Deduction**

- A. I.R.C. Section 167—Depreciation
- B. Cost as Basis
- C. I.R.C. Section 1011—Adjusted Basis for Determining Gain or Loss
- D. Basis Adjustment for Depreciation Allowed or Allowable
- E. Most Used Depreciation Methods

**§ 4.6 Applicable Conventions**

- A. Declining Balance Method
- B. Straight Line Method
- C. Using the Applicable Convention
  - 1. Half-Year Convention
  - 2. Mid-Quarter Convention
  - 3. Mid-Month Convention
- D. GDS Classification
- E. Recovery Periods Under ADS
- F. Property
  - 1. Mid-Month Convention
  - 2. Mid-Quarter Convention
  - 3. Half-Year Convention
- G. Listed Property

**§ 4.7 Section 179 Deduction and Bonus Depreciation****§ 4.8 The Economic Stimulus Act**

- A. Section 179 Expensing

B. Bonus Depreciation

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- A. Revoking an Election
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- C. Dividends-Received Deduction

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- A. Distributions, Earnings, and Profits as Dividends
- B. Money or Property Distributions
- C. Distribution of Stock or Stock Rights
- D. Constructive Distributions
- E. Reporting Dividends and Other Distributions
- F. Current Year Earnings and Profits
- G. Distributions in Redemption of Stock—Section 302
- H. Taxation of Corporation Upon Liquidation
- I. Distributions in Corporate Reorganizations
- J. Spin-Offs, Split-Offs, and Split-Ups
- K. Accumulated Earnings Tax
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**CHAPTER 5**

**LIMITED LIABILITY COMPANIES**

**§ 5.1 Single Member Limited Liability Companies**

- A. Check the Box
- B. Limited Liability Company Articles of Organization Checklist

**CHAPTER 6**

**SUBCHAPTER S**

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- A. Filing Requirements
- B. Elections
- C. Eligibility To Elect Subchapter A Status
- D. How to Make a Subchapter S Election

**§ 6.2 The Section 179 and Bonus Depreciation Expense Deductions**

- A. Section 179 Deduction
- B. S Corporation—Section 179 Deduction Limitations

**§ 6.3 The Economic Stimulus Act**

- A. Section 179 Expensing
- B. The American Recovery and Reinvestment Act of 2009 Amendment
- C. Bonus Depreciation

**§ 6.4 Wage Compensation for S Corporation Officers**

- A. Who's an Employee of the Corporation
- B. What's a Reasonable Salary
- C. Medical Insurance Premiums Treated as Wages

**§ 6.5 Tax Year for Subchapter S**

- A. Calendar Year

- B. Fiscal Year
- C. Change of Accounting Period—I.R.C. Section 442
- D. Short Tax Year
- E. Exception for S Corporations, and Required Years
- F. Election of Taxable Year other than Required Taxable Year—I.R.C. Section 444
- G. Required Payment Under Section 444
- H. Business Purpose
- I. Fifty-Two or Fifty-Three-Week Tax Year
- J. S Corporation's Status Other Than Required Taxable Year—Summary
- K. Election

## **§ 6.6 Profile of a Subchapter S Corporation**

- A. Formation
- B. Eligibility To Elect Subchapter A Status
- C. Termination
- D. Revocation
- E. Taxation of a Corporation: Built-In Gains
- F. Conference Report—American Recovery and Reinvestment Act of 2009
- G. Other Situations Imposing Tax on S Corporations
- H. Taxation of the Shareholder on Corporate Income
  - 1. Capital Gains and Losses
  - 2. Section 1231 Gains and Losses
  - 3. Charitable Contributions
  - 4. Interest and Dividends
  - 5. Credits
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  - 7. Pro Rata Share
- I. Shareholder's Stock Basis and Adjustments
- J. Basis Adjustment for Stock and Debt
- K. Distributions by Subchapter S Corporations
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# CHAPTER 7

## CONCLUSION—CHOOSING THE BEST BUSINESS ENTITY

### **§ 7.1 In General**

- A. Check the Box
- B. Single-Owner Entities (Proprietorships)

### **§ 7.2 Proprietorship Status**

- A. Major Advantages
- B. Major Disadvantages

### **§ 7.3 Corporation (Association) Status**

- A. Major Advantages
- B. Major Disadvantages

### **§ 7.4 Nontax Considerations**

- A. Control
- B. Burden of Filing Requirements
- C. Ownership Requirements
- D. Liability of Owners

**§ 7.5 Subchapter S Status**

- A. Major Advantage
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**§ 7.6 Recommended Preferred Entity**

**§ 7.7 Single-Member Limited Liability Companies**

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- A. Partnerships
- B. Major Advantages
- C. Major Disadvantages

**§ 7.9 Recommended Preferred Entity**

All forms mentioned in this chapter are located in the **IRS FORMS** chapter of this book.