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# Pass-Through Entity Reform: Is a Major Overhaul Necessary?

Walter D. Schwidetzky

*University of Baltimore School of Law, [wswidetzky@ubalt.edu](mailto:wswidetzky@ubalt.edu)*

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# **CHAPMAN LAW REVIEW SYMPOSIUM 2014**

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## **INTEGRATING SUBCHAPTERS K AND S**

**PROF. WALTER SCHWIDETZKY  
UNIVERSITY OF BALTIMORE  
SCHOOL OF LAW**

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**□ IN 1996 I WROTE MY FIRST ARTICLE RECOMMENDING THE REPEAL OF SUBCHAPTER S.**

**□ I BELIEVE IN THE POWER OF PERSISTENCY.**

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**□ H.R. 4137.**

**□ GENERALLY, TAX PARTNERSHIPS  
ARE A BETTER TAX DEAL THAN S  
CORPORATIONS.**

**■ TWO BIGGIES: SPECIAL  
ALLOCATIONS AND SECTION 752.**

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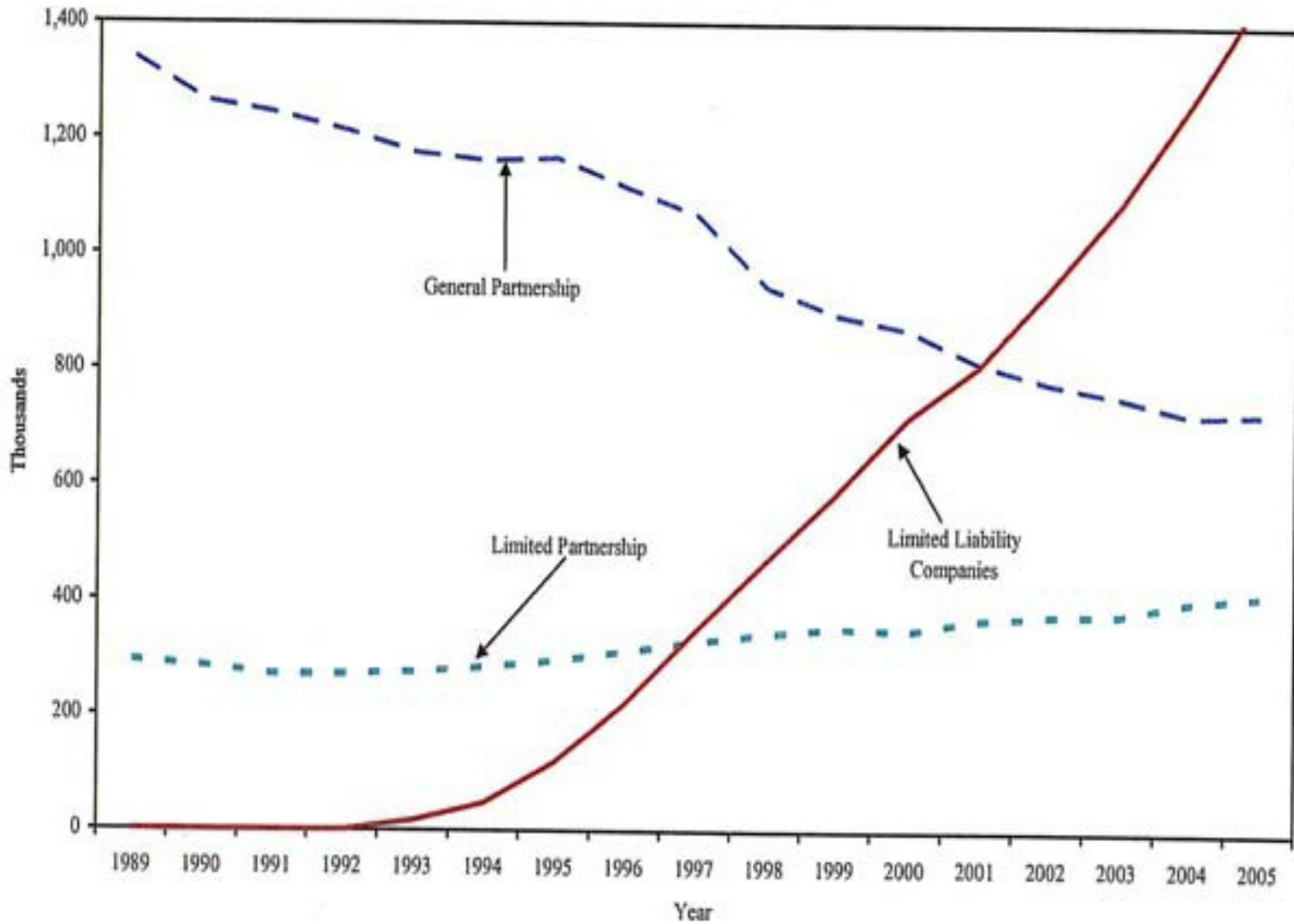
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**□ WHILE SOME TAX PARTNERSHIPS ARE STUNNINGLY COMPLEX, IT IS VERY POSSIBLE TO HAVE A SIMPLE PARTNERSHIP.**

**■ MUCH OF THE COMPLEXITY IS VOLUNTARY.**

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Domestic Partnership Returns by Type of Partnership , 1989-2005 (Source JCT JCX-48-08)



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**☐ MAIN S CORPORATION  
ADVANTAGES:**

**☐ NEAR TERM PUBLIC OFFERING.**

**☐ CAPITAL GAIN FREEZE  
TECHNIQUE.**

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## **□ NESE GAMBIT.**

- SOCIAL SECURITY TAXES (12.4%) AND MEDICARE TAXES (2.9%).**
  - WATSON.**
  - OBAMACARE TAXES: .9% ON NESE, 3.8% ON NET INVESTMENT INCOME.**
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**□ SERVICE/NONSERVICE  
BUSINESSES**

**□ WHEN IS INCOME FROM CAPITAL,  
WHEN FROM SERVICES.**

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**RECOMMEND NONPUBLIC CORPORATIONS BE ALLOWED TO ELECT SUBCHAPTER K.**

**NUTS AND BOLTS.**

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# CAMP PROPOSALS

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## □ OPTION 2

- NEW SUBCHAPTER K.
  - NO SPECIAL ALLOCATIONS.
  - NO CAPITAL GAIN FREEZE TECHNIQUE.
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- **MAY OR MAY NOT ALLOW NESE GAMBIT.**
  - **GAIN ON DISTRIBUTIONS.**
  - **WITHHOLDING TAX ON DISTRIBUTIONS.**
  - **NOT FULLY THOUGHT OUT.**
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■ **DOA.**

■ **PROBABLY DISCOURAGES BUSINESS  
ENTITY TAX REFORM.**

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# TRA 2014

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- DOES NOT JUST PLAY FAVORITES.**
  - TAKES ON A LOT OF SACRED COWS.**
  - MAKES SECTION 754 ELECTIONS MANDATORY AND REMOVES TIME LIMIT ON MIXING BOWL DEALS.**
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**□ ADDRESSES NESE GAMBIT AND  
INCOME FROM CAPITAL.**

**■ 70/30% SPLIT.**

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- WHEN LIBERAL LAW PROFESSORS CAN FIND THINGS THEY LIKE IN A REPUBLICAN TAX PROPOSAL,**
  - COMPREHENSIVE TAX REFORM IS OFF TO A GOOD START.**
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**☐ CAUTION: BIG TAX REFORM CAN  
LEAD TO UNEXPECTED  
CONSEQUENCES.**

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