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

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INTEGRATING SUBCHAPTERS K AND S

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

I BELIEVE IN THE POWER OF PERSISTENCY.
H.R. 4137.

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

TWO BIGGIES: SPECIAL ALLOCATIONS AND SECTION 752.
WHILE SOME TAX PARTNERSHIPS ARE STUNNINGLY COMPLEX, IT IS VERY POSSIBLE TO HAVE A SIMPLE PARTNERSHIP.

MUCH OF THE COMPLEXITY IS VOLUNTARY.
Domestic Partnership Returns by Type of Partnership, 1989-2005 (Source JCT JCX-48-08)
MAIN S CORPORATION

ADVANTAGES:

- NEAR TERM PUBLIC OFFERING.
- CAPITAL GAIN FREEZE TECHNIQUE.
NESE GAMBIT.

- SOCIAL SECURITY TAXES (12.4%) AND MEDICARE TAXES (2.9%).

- WATSON.

- OBAMACARE TAXES: .9% ON NESE, 3.8% ON NET INVESTMENT INCOME.
SERVICE/NONSESERVICE BUSINESSES

WHEN IS INCOME FROM CAPITAL, WHEN FROM SERVICES.
RECOMMEND NONPUBLIC CORPORATIONS BE ALLOWED TO ELECT SUBCHAPTER K.

NUTS AND BOLTS.
CAMP PROPOSALS

- OPTION 2

- NEW SUBCHAPTER K.

- NO SPECIAL ALLOCATIONS.

- NO CAPITAL GAIN FREEZE TECHNIQUE.
- MAY OR MAY NOT ALLOW NESE GAMBIT.

- GAIN ON DISTRIBUTIONS.

- WITHHOLDING TAX ON DISTRIBUTIONS.

- NOT FULLY THOUGHT OUT.
DOA.

PROBABLY DISCOURAGES BUSINESS ENTITY TAX REFORM.
TRA 2014

☐ 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.
ADDRESSES NESE GAMBIT AND INCOME FROM CAPITAL.

70/30% SPLIT.
WHEN LIBERAL LAW PROFESSORS CAN FIND THINGS THEY LIKE IN A REPUBLICAN TAX PROPOSAL,

COMPREHENSIVE TAX REFORM IS OFF TO A GOOD START.
CAUTION: BIG TAX REFORM CAN LEAD TO UNEXPECTED CONSEQUENCES.