Georgetown University Law Center

S Corporation and LLC Taxation

Syllabus and Suggested Reading Assignments

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Spring 2017: Classes will meet on Thursdays from 5:45 p.m. to 7:45 p.m. in Room 160, McDonough Hall. Grades for this course are based on the final examination. Class participation is expected, but will not impact the final grade. The final examination is take-home, open-book, and will be available anytime during the exam period. Calculators may be used, although they probably are not necessary. During the course, questions should be asked during lecture or after class. During the day, Sam can be reached at

The required course materials are:

- Internal Revenue Code of 1986, as amended
- Federal income tax regulations
- Handout materials
- BNA Tax Management Portfolio, "Limited Liability Companies," 725-3rd T.M. [referenced as "LLC Portfolio"]

Prerequisites:

Corporate Income Tax I and Taxation of Partnerships (Corporate Income Tax II is recommended but not a prerequisite.)
I. INTRODUCTION

Class 1: Choice of Entity (no reading assignment)  January 19

Class 2: Eligibility Requirements  January 26

- Code Sections 1361(b), (c), (d) and (e)
- Reg. Section 1.1361-1 to –5
- Reg. §1.641(c) –1 (ESBT regs)
- 2013 Form 8869 and Instructions (Q-sub election form)

START with II. A. General Rules of Eligibility and STOP with II. C. 1.b. (6) Qsubs and EINs, Pages A-5 to A-10

START with II. C. 3(a). Financial Institutions and STOP with II. C. e. Director Stock, Pages A-15 to A-17

START with II. D. Shareholder Limit and STOP with II. E. 1. f. (6) Effective Date, Pages A-18 to A-38

START with II. F. Single Class of Stock and STOP with II. F.10. Stock Purchase Agreements, Pages A-44 to A-61

Class 3: Eligibility Requirements (cont.) (first hour)  February 2

Class 3: Elections, Revocations and Terminations (second hour)  February 2

- Code Sections 1362(a), (b), (d),(e),(f),(g); 1371(e); 1377(a)(2), (b)
- Reg. Section 1.1377-2
- Reg. Sections 1.1362-1,-2(a) and (b),-3,-4,-5,-6
- 2013 Form 2553 and Instructions (S Corporation election form)
- S Corp. Formation Portfolio, 730-4th T.M., pages A-63 to A-64; A-66, A-74 to A-83; A-95 to A-99

START with III. Electing S Corporation Status and STOP with III.C.1.b. Relief From Inadvertently Invalid Elections and Terminations, START and STOP with III. C.2.a. In General, Page A-66
Class 4: Built-in Gains Tax  

- Code Section 1374
- Reg. Section 1.1374-1 through –10
- S Corp. Corporate Portfolio, 731-3rd, T.M., pages A-21 to A-38

Class 5: Built-in Gains Tax (cont.) (first hour)  

- Reg. Section 1.1363-2 (Recapture of LIFO Benefits)
- S Corp. Corporate Portfolio, 731-3rd, T.M., pages A-43 to A-45

Class 5: Passive Income – Tax and Termination (second half)  

- Code Section 1362(d)(3); 1375
- Reg. Section 1.1362-2(c)

NO CLASS (Faculty Retreat)  

Class 6: Passive Income Tax and Termination (first hour)  

Class 6: Tax Treatment to Shareholders (second hour)  

- Code Sections 1366, 1367
- Reg. Section 1.1366-1 to -2
- Reg. Sections 1.1367-1 to -3

START with I. Tax Treatment of Income and Losses to Shareholders and STOP with I. A.1. a. Character Retention, Page A-1

START with I.A.2. Pro Rata Share Defined and STOP with I.A.2.c. Qualifying Dispositions, Pages A-16 to A-17

START with II. Shareholder Basis in Stock and Indebtedness and STOP with II.A.1.g. Timing of Basis Adjustments, Pages A-45 to A-49

START with II.A.2. Basis in Indebtedness and STOP II.C.2. Gain Recognized on Repayment, Page A-50 to A-58

START with II.E. Creating Basis in an S Corporation and STOP III.E.8. Shareholder Guarantees for Business Purposes, Pages A-63 to A-72

Class 7: Tax Treatment to Shareholders (first hour) March 9

Class 7: Distribution of Earnings (second hour) March 9

- Code Section 1368
- Reg. Section 1.1368-1 to - 3

START with II. Treatment of S Corporation Distributions and STOP with II.F. Disproportionate Distributions, Pages A-53 to A-67

NO CLASS (Spring Break) March 16

Class 8: Distribution of Earnings March 23

Class 9: S Corporation Acquisitions and Structuring Issues March 30

- Code Sections 1371(a)
- Reg. §1.336-2
- Reg. § 1.338(h)(10)-1
- S Corp. Corporate Portfolio, 731-3rd, T.M., pages A-78 to A-101

START III.D. Acquisitions by an S Corporation and STOP with III.G.2. Changes in Form, Pages A-78 to A-101

Class 10: S Corporation Acquisitions and Structuring Issues (first hour) April 6

Class 10: Compensating S Corporation Shareholders (second hour) April 6

- Rev. Rul. 91-26, 1991-1 CB 184 (S corporation fringe benefits)
III. LIMITED LIABILITY COMPANIES

Class 11: Formation and Classification

- Code Section 721
- Reg. Section 301.7701-1,-2,-3 (Check-the-Box Final Rules)
- 2013 Form 8832, "Entity Classification Election," and Instructions
- The Delaware LLC Act reproduced as Worksheet B-101 in LLC Portfolio 725-3rd does not contain the more recent amendments to the Act. Accordingly, some of the sections of the Act listed in the remaining classes are not in the Portfolio. These sections will be discussed in class. The current version of the Act can be accessed on the Internet at http://www.delcode.delaware.gov/title6/c018/index.shtml. If this address does not work, go to http://www.delcode.delaware.gov/index.shtml and click on Chapter 18 under Title 6.
- Formation, Delaware LLC Act Section 18-201 (Certificate of Formation)
- LLC Portfolio 725-3rd T.M., pages A-17 to A-27

Class 12: Operations (first hour)

- Prop. Reg. Section 1.469-5(e)(3)(i)
- Freedom to Contract – Delaware LLC Act, no specific section
- Liability of Members and Managers, Delaware LLC Act §18-215 (Series of Members, Managers or Limited Liability Company Interests); §18-303 (Liability to Third Parties); §18-406 (Reliance on Reports and Information by Member or Manager); §18-502 (Liability for Contributions); §18-607 (Limitations on Distributions); and §18-804 (Distribution of Assets)
- Fiduciary Duties, Delaware LLC Act §18-1101(c) (Construction and Application of Chapter and Limited Liability Company Agreement); §18-108 (Indemnification)
- Dispute Resolution, Delaware LLC Act §18-109(d) (Service of Process of Managers and Liquidating Trustees)
Class 12: Compensation and Self-Employment Taxes (second hour) April 20

- Prop. Reg. Section 1.1402(a)-2
- Rev. Rul. 91-26, 1991-1 C.B. 184 (See Class 10 materials)
- LLC Portfolio 725-3rd T.M. pages A-57 to A-66

START with VI. Tax Treatment of Self-Employment Earnings, Fringe Benefits, etc, and STOP with VI.C.6. Compensating Members with Corporate Member Stock, Pages A-57 to A-66

Class 13: Conversions and Reorganizations April 27

- Reg. §1.368-2T(b)(1)(i) and T.D. 9038 (1/23/03)(mergers and disregarded entities)
- Rev. Rul. 99-6 1999-1 C.B. 432
- Reg. Section 301.7701-3(f) & (g) (LLC conversion regs)
- DLLCA Sec. 18-209 (Mergers and Consolidations); Sec. 18-212 (Domestication of Non-United States Entities); Sec. 18-213 (Transfer or Continuance of Domestic Limited Liability Company); Sec. 18-214 (Conversion of Certain Entities to a Limited Liability Company); and Sec. 18-216 (Approval of Conversion of a Limited Liability Company)
- LLC Portfolio, 725 3rd T.M., A-7 to A-15 (Converting to LLC Status)

START with II. Converting to LLC Status and STOP with II.G. Mergers of Corporate Entities and Disregarded Entities, Pages A-7 to A-15

* End of Class Schedule *