



Ten Tax Troubles

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1. Biden Proposals

A. Capital Gains Tax

- (i) Currently highest rate 20%
- (ii) Proposal 39.6% if total income $>$ \$1M
 - a. tax on capital gain if \$999,999 = \$200,000
 - b. tax on capital gain if \$1,000,000 = \$396,000
 - c. this results in a tax on \$196,000 on last \$1 of profit

B. FIRPTA withholding certificate (maximum rate)

C. Estate Tax

No “step-up” to fair market value at death
(except for first \$1M) or capital gain recognition.

(i) allocation?













(ii) tax return?

D. Corporate rate now 21% proposed 28%. This
could be better than individual rate.



2. Corporate Elections for LLC

- A. Election easy to do
- B. Is it ultra vires?

LEGAL STRUCTURE	\$ TAXATION \$		
	PARTNERSHIP 	S-CORP 	C-CORP 
Partnership (GP, LP, OR LLP)	DEFAULT 	X 	X 
LLC	DEFAULT 	SPECIAL ELECTION 	SPECIAL ELECTION 
Corporation	X 	SPECIAL ELECTION 	DEFAULT 

3. Bank Account in Individual Name

- A. No estate tax – but watch out for money market funds or cash reserves in brokerage account
- B. Bank may freeze account



4. Expatriation Tax Applies to

- A. U.S. citizens
- B. Long-Term Resident is 8 years or really 6+ years?



5. Joint *Ownership*

- A. A + B
- B. A + B, jointly with right of survivorship
(tracing)

6. *Joint* Ownership

A. Cannabis

B. Ransomware

7. Net Operating Losses v. Capitalization



8. “My Children”

- a. Virtual adoption
- b. Adoption by next spouse



9.

Wealthy U.S. Citizen
dies with non-citizen
spouse



10. U.S. residency – Stuck in New York for Coronavirus Lockdown

- A. U.S. rules
- B. State tax rules



VOA