

# Land Accounting & Incorporating Your Business

Cheddy Wigginton, CPA Wigginton & Associates



#### Cheddy Wigginton, CPA

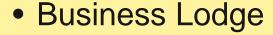
Cheddy Wigginton is a Certified Public Accountant licensed to practice in Arkansas and California. He is a former tax partner with Frost, PLLC and has written numerous articles related to business and individual taxation that have been published on a national level including for Tractorlife.com and on the website of the United States House of Representatives Committee on Small Business as well as locally for *AY Magazine*. He has a substantial background in federal and state income taxation, including multistate taxation, specializing in taxation of family owned businesses, agriculture, manufacturing, transportation & financial institutions.

Cheddy recently served at the Chairman of the Board for Riverfest, Inc. and is currently serving as Treasurer for Ballet Arkansas, Inc. He is a member of the Little Rock Chamber of Commerce's Leadership Greater Little Rock Class XXVII as well as a member of the American Institute of Certified Public Accounts and the Arkansas Society of Certified Public Accountants, where he serves on the taxation committee.





- Hunting Clubs
  - Hunting Clubs
    - Personal Hunting Clubs
      - No deduction allowed for Dues paid for a hunting club –
         NOT even the 50% entertainment deduction



- Owned by a business and hosts clients on regular basis
  - » Possible at least 50% entertainment deduction
  - » Possible depreciation deduction for lodge





#### Rental Income

- Pay taxes on net income after legitimate business deductions
- Can't depreciate land
- Must capitalize land clearing expenses (i.e. leveling)
- NEW for 2013 possible 3.8% surtax on net rental income
- So why not take a loss?



- Passive Activity Losses (PAL)
  - Rental activity is generally treated as a passive activity
  - PALs can only offset passive activity income or be carried forward
  - loss from one rental activity can offset income from another rental activity
  - i.e. lease for hunting loses \$ can offset farming rental income
  - \$25,000 loss offset for Active Participation



- \$25,000 Loss Exception
  - At individual level
  - Offset active income (W-2)
  - Active participation
    - Makes management decisions
    - Arranges providers of services (i.e. repairs, etc...)
    - Must own at least 10% of all interests in the activity throughout the year (spouse % counts)





- What happens if sell land?
  - Capital Gain (currently 20% if owned more than 1 yr)
  - Capital Gains can be subject to new 3.8% surtax
  - Can you avoid? Possibly......
    - Section 1031 (Like Kind Exchanges)
      - Defers gain until the new property is sold
      - Time constraints (45/180 rule or due date of return)
      - Not allowed for personal use property



- Selling Mineral Rights = capital gain?
  - Mineral rights only and payment upfront can possibly be long-term capital gains (20% tax)\*
  - However, if "lease" mineral rights with a bonus and payout based on production it is considered "ordinary income" and taxed at current effective rates

<sup>\*</sup> Could also be subject to new 3.8% surtax



- What's this 3.8% surtax?
  - Surtax charged on net investment income in excess of certain thresholds
  - \$200k for Single; \$250,000 for MFJ & \$11,650 for Trusts
  - Tax calculated on lesser of net investment income or the amount the taxpayer exceeds the thresholds
  - All used as a revenue generator from new health care reform legislation





- Choice of Entity
  - Sole proprietorships
    - Rents reported on either Sch E or Form 4835 (Farm)
  - Limited Liability Company (LLC)
    - Rents reported on Form 8825, Sch K or Form 4835
  - Subchapter S Corporation (S-Corp)
    - Rents reported on Form 8825, Sch K or Form 4835



- Sole proprietorships
  - No real legal protection against personal assets
  - Taxed directly on your personal return, no additional tax return necessary
  - Responsible personally for business debts
  - No direct separate books and records are required, per se



- Limited Liability Company (LLC)
  - Gives protection to personal assets in the event of a disaster / lawsuit
  - Only company assets can be used to satisfy business debts (unless debt is personally guaranteed)
  - Requires formal organization & franchise fees
  - No limitations on ownership
  - No salaries required to be paid
  - Disproportionate distributions allowed



#### S Corporation

- Similar to LLC in debt / disaster protection
- Requires formal organization & franchise fees
- More structured than an LLC
- Requires Board of Directors
- Requires a "reasonable" salary to be paid
- Restrictive ownership (i.e. IRAs can't be shareholders)
- Only proportionate distributions are allowed



### Questions?



#### Contact Information

Cheddy Wigginton, CPA
Wigginton & Associates
2400 Crestwood Road, Suite 108
North Little Rock, AR 72116
(501) 246-8657

www.wiggintoncpa.com

cheddy@wiggintoncpa.com