

Introduction to the Taxation of Business Organizations and Choice of Entity

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CAROLINA ACADEMIC PRESS

Durham, North Carolina

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ISBN 978-1-5310-0422-4
e-ISBN 978-1-53100-423-1
LCCN 2018939844

Carolina Academic Press, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

Dedication

To Jackie and Jonathan—MKF
To my Mother and Father—JMB

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Preface

“Do you know what you’re doing?”

You are likely to hear that question, or ask yourself that question, or some variation of it, in the course of representing clients choosing among the various forms in which they can conduct their businesses, a choice based at least in part on the differing federal income tax issues and consequences associated with each form.

As you may know, the most common choices for conducting a business are as a (1) sole proprietorship, (2) Subchapter C corporation (“C corporation”), (3) Subchapter S corporation (“S corporation”), and (4) partnership (or limited liability company taxed as a partnership). You studied the sole proprietorship in your basic income tax course when you considered the tax issues and consequences associated with the conduct of a business in an individual capacity. For that reason, we will not discuss in this casebook the tax treatment of a sole proprietor.

This casebook provides an introduction to the fundamental tax issues encountered in entity formation, operations, distributions, and ownership transfers of three business entities: the C corporation, the S corporation, and the partnership (including a limited liability company taxed as a partnership). It allows you to compare and contrast those issues with respect to each of those entities. It is, of course, axiomatic that the C corporation is subject to double taxation (at the corporate and shareholder levels) while the S corporation and the partnership are not. But that is, at most, a starting point for an examination of the fundamental tax issues, the similarities and the differences among the three entities.

We welcome you now to the start of a challenging and most rewarding journey introducing you to the taxation of business organizations.

Acknowledgment

We gratefully acknowledge the excellent work of our long-time editor, Elisabeth Ebben. We deeply appreciate her attention to detail, thoughtful questions and suggestions, collaborative spirit, patience, and encouragement.

