



IRS Nationwide

# Tax Forum | 2022

## Advisory/Compliance Considerations for Making S-Election Tuesday, July 19<sup>th</sup>, 2022

Start Time: 11:00am Eastern / 10:00am Central  
9:00am Mountain / 8:00am Pacific

*Note: You should be hearing music while waiting for webinar to start.*

### Having Technical Issues?

View the “Technical Issues” troubleshooting guide in the Materials drop-down menu on the left side of this page



# Today our webinar will:

- Ethically and Properly Proposing the S-Election
- Educating the Taxpayer on Compliance at Federal and State Level
- Managing Taxpayer Expectations on Additional Cost of Maintenance and Compliance
- Long Term Considerations



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# Ethically Proposing the S-Election

- Do not take the role of giving legal advice
- Determine the Taxpayers Objectives
- Dispel the Myths



# Properly Proposing the S-Election

Is the taxpayer a good candidate for making the election?

- Existing/New Business
- Mock Return
- Industry Considerations
- Revenue



# Properly Proposing the S-Election

- QBI - Sec. 199A of the Internal Revenue Code affords owners of sole proprietorships, partnerships and S corporations a 20 percent deduction on their qualified business income (QBI) beginning in tax year 2018.
- Specified Service Trade or Business - any trade or business where the principal asset is the reputation or skill of one or more of its employees or owners.
- De Minimis

# Educating the Client on Compliance

## Federal

- Election Deadline – 15<sup>th</sup> day of the 3<sup>rd</sup> month from formation or one of the following:
  1. the corporation has shareholders,
  2. acquires assets, or
  3. begins doing business.
- Calendar Year – 15<sup>th</sup> day of the third month of the year the election is being made.

# Educating the Client on Compliance

## Late Election

- A late election to be an S corporation generally is effective for the tax year following the tax year beginning on the date entered on line E of Form 2553. However, relief for a late election may be available if the corporation can show that the failure to file on time was due to reasonable cause.
- It is possible to go back as far as 3 years and 75 days from the date the change is requested (IRS Late Election Relief). Going back that far means you'll need to amend your tax returns

# Educating the Client on Compliance

## Rules for Late Election Relief

The following requirements must be met to qualify for late S corporation election relief by a corporation or entity classified as a corporation:

- The entity intended to be classified as an S corporation, is an eligible entity, and failed to qualify as an S corporation solely because the election was not timely;
- The entity has reasonable cause for its failure to make the election timely;
- The entity and all shareholders reported their income consistent with an S corporation election in effect for the year the election should have been made and all subsequent years; and
- Less than 3 years and 75 days have passed since the effective date of the election



# Educating the Client on Compliance

## State Considerations – States Vary

- Research rules for the State of formation
- Work with experienced professional in that state
- State filing requirements

## Filing Deadlines – Make Taxpayer aware of filing deadlines and extension deadlines.

- An S corporation must always file its annual tax return by the 15th day of the third month following the end of the tax year, generally March 15 unless this date falls on a weekend or holiday.

# Educating the Client on Compliance

## Reasonable Salary

What is a reasonable salary?

- The IRS determines reasonableness on a case-by-case basis but offers a multiple factors as guidelines. These include your role and duties in the company, your background and experience and amounts paid to others in similar-situated businesses.
- If your business revenue comes mostly comes from your services, the IRS will likely see all of your business income as your salary.

\*See Resources



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# Educating the Client on Compliance

- Basis
- Distributions
- Loss Limitations
- Changes in Ownership



# Managing Taxpayers Expectations

## Additional Cost of Maintenance and Compliance

- Accounting/Bookkeeping
- Additional Tax Return(s)
- Payroll Administration



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# Managing Taxpayers Expectations

- Tax Planning
- Board Meetings



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# Long term considerations

- Growth Plans
- Additional shareholders
- Lifestyle or Legacy
- Tax law changes (i.e., QBI)
- Exit Strategy



# Resources

- REV. PROC. 2013-30
- Glass Blocks Unlimited v. Commissioner of Internal Revenue, T.C., Summary Opinion 2013-180
- Spicer Accounting, Inc., Plaintiff-appellant, v. United v. United State of America, Defendant-appellee, 918 F.2d 90 (9th Cir. 1990)



# Resources

- Form 1120S
- [https://www.irs.gov/pub/irs\\_pdf/f1120s.pdf](https://www.irs.gov/pub/irs_pdf/f1120s.pdf)
- Instructions to Form 1120S
- [https://www.irs.gov/pub/irs\\_pdf/i1120s.pdf](https://www.irs.gov/pub/irs_pdf/i1120s.pdf)
- Form 2553
- [https://www.irs.gov/pub/irs\\_pdf/f2553.pdf](https://www.irs.gov/pub/irs_pdf/f2553.pdf)
- Instructions to Form 2553
- [https://www.irs.gov/pub/irs\\_pdf/i2553.pdf](https://www.irs.gov/pub/irs_pdf/i2553.pdf)
- S corporations
- [https://www.irs.gov/businesses/small\\_businesses/self-employed/s\\_corporations](https://www.irs.gov/businesses/small_businesses/self-employed/s_corporations)
- Forming a Corporation
- [https://www.irs.gov/businesses/small\\_businesses/self-employed/forming\\_a\\_corporation](https://www.irs.gov/businesses/small_businesses/self-employed/forming_a_corporation)