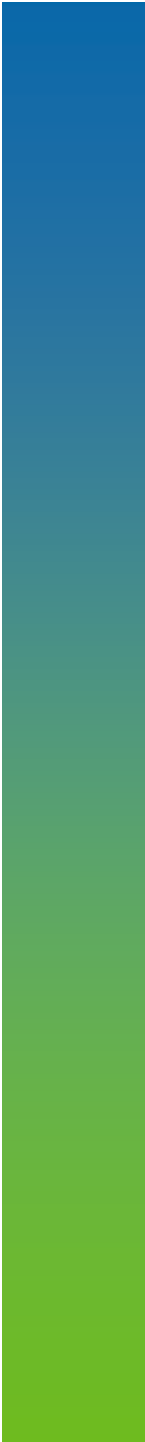




Choice of Business Entity in Today's Tax Environment

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About TravisWolff

- Independent accounting firm that offers a full range of tax, assurance and consulting services to:
 - Entrepreneurs – owner-operated businesses
 - Enterprises – large, formal organizations
 - Individuals – high net worth
- 150 professionals
- Two locations – Dallas and San Antonio
- Global reach through our affiliation with Moore Stephens

About TravisWolff

- Industry specializations include:
 - Real estate
 - Energy/oil and gas
 - Construction
 - Financial services and mortgage banking
 - Healthcare
 - Non-profit
 - Manufacturing, distribution and wholesale
 - Professional services
 - Restaurant, retail and hospitality
 - Technology

Changing Tax Environment

Married Filing Jointly

Bracket	2010 Rates	2011 Rates
10%	\$0 - \$16,750	n/a
15%	\$16,750 - \$68,000	\$0 - \$70,040
25%	\$68,000 - \$137,300	n/a
28%	\$137,300 - \$209,250	\$70,040 - \$141,419
31%	n/a	\$141,419 - \$215,528
33%	\$209,250 - \$373,650	n/a
35%	Over \$373,650	n/a
36%	n/a	\$215,528 - \$384,860
39.6%	n/a	Over \$384,860

Changing Tax Environment

Single

Bracket	2010 Rates	2011 Rates
10%	\$0 - \$8,375	n/a
15%	\$8,375 - \$34,000	\$0 - \$35,020
25%	\$34,000 - \$82,400	n/a
28%	\$82,400 - \$171,850	\$35,020 - \$84,872
31%	n/a	\$84,872 - \$177,006
33%	\$171,850 - \$373,650	n/a
35%	Over \$373,650	n/a
36%	n/a	\$177,006 - \$384,860
39.6%	n/a	Over \$384,860

Changing Tax Environment

Capital Gains – 2010 Rates

<i>If</i> seller had owned the sold asset for	<i>and</i> Seller's marginal income tax rate the year of sale is					
	10%	15%	25%	28%	33%	35%
	<i>then</i> the tax rate on the capital gain is					
Less than 1 year	10%	15%	25%	28%	33%	35%
1 year or more	0%	0%	15%	15%	15%	15%

Capital Gains – 2011 Rates

<i>If</i> seller had owned the sold asset for	<i>and</i> Seller's marginal income tax rate the year of sale is				
	15%	28%	31%	36%	39.6%
	<i>then</i> the tax rate on the capital gain is				
Less than 1 year	15%	28%	31%	36%	39.6%
1 to 5 years	10%	20%	20%	20%	20%
Over 5 years	10%	20%	20%	20%	20%

Changing Tax Environment

Corporate Income Tax

Rate	2010	2011
15%	\$0 - \$50,000	No changes anticipated
25%	\$50,000 - \$75,000	
34%	\$75,000 - \$100,000	
39%	\$100,000 - \$335,000	
34%	\$335,000 - \$10,000,000	
35%	\$10,000,000 - \$15,000,000	
38%	\$15,000,000 - \$18,333,333	
35%	Over \$18,333,333	

Changing Tax Environment

Marginal Income Tax Rate Analysis

Comparison of the increased income tax on \$25,000 of additional income for a married couple having \$175,000 of taxable income

	2010	2011
new taxable income	\$200,000	\$200,000
prior taxable income	\$175,000	\$175,000
increase	\$25,000	\$25,000
tax bracket rate	28%	31%
additional income tax	\$7,000	\$7,750
marginal tax difference	\$750	
% of increase in marginal tax	10.71%	

Sole Proprietorships

- Ownership issues
 - Single individual owner
- Liability issues
 - Owner has unlimited liability from the operation of his/her business
- How to form
 - Needs a trade name
 - Owner can use his/her SSN as the identifying number for the business
- Operation-tax considerations
 - Owner is taxed on all profits earned
 - Owner may deduct all ordinary and necessary business expenses
 - Subject to self-employment tax

Pass-Through Entities: General Partnerships

- Ownership issues
 - At least two owners
- Liability issues
 - Each partner has unlimited liability
- How to form
 - Create a formal agreement that details out profit/loss allocations, contributions, and distributions
 - Needs a trade name
 - Most states do not require formal registration

Pass-Through Entities: General Partnerships

- Operation-tax considerations
 - Partnership is nontaxable
 - Formation of partnership is usually not taxable
 - Partnership still need to file a tax return, separate from the partners
 - Partners must report their share of the partnership's separately stated items of income (i.e. interest, dividends, capital gains/loss) and non separately stated items of income or loss (business income)

Pass-Through Entities: Limited Partnerships

- Ownership issues
 - At least two owners – one general and one limited partner
- Liability issues
 - General partners have unlimited liability
 - Limited partners have limited liability
- How to form
 - Create a formal agreement that details out profit/loss allocations, contributions, and distributions
 - Needs a trade name
 - Must file with the state a Certificate of Limited Partnership

Pass-Through Entities: Limited Partnerships

- Operation-tax considerations
 - Partnership is nontaxable
 - Formation of partnership is usually not taxable
 - Partnership still need to file a tax return, separate from the partners
 - Partners must report their share of the partnership's separately stated items of income (i.e. interest, dividends, capital gains/loss) and non separately stated items of income or loss (business income)

Pass-Through Entities: LLCs

- Ownership issues
 - Owners are known as members
 - At least one member
- Liability issues
 - Members have limited liability
- How to form
 - Create a formal agreement that details out profit/loss allocations, contributions, and distributions
 - Needs a trade name
 - Must file with the state a Certificate of Formation

Pass-Through Entities: LLCs

- Operation-tax considerations
 - LLC can elect to be taxed as a C Corp
 - If no election is made, it will be taxed like a partnership
 - If the LLC is taxed as a partnership, the income earned in the LLC will be taxable at the member level
 - the partnership rules of taxation will apply
 - If the LLC elects to be taxed as a C Corp, then the C Corp rules of taxation will apply (discussed later)

Pass-Through Entities: S Corporations

- Ownership issues
 - Limited to 100 shareholders
 - At least one member
 - Only individuals, decedents' estates, estates of individuals in bankruptcy, and certain trusts may be shareholders
 - Partnerships, corporations, and many types of trusts may not be shareholders
 - The corporation may have only one class of stock, but different voting rights are allowed
- Liability issues
 - Shareholders do not have liability
- How to form
 - Draft articles of incorporation that describes the nature of the business
 - Must file with the state a Certificate of Incorporation
 - If the Corp wants to be taxed like an S Corp, the Corp must file Form 2553 with the IRS

Pass-Through Entities: S Corporations

- Operation-tax considerations
 - Not a taxable entity if it was not formerly a C Corp
 - Shareholders are taxed on the income earned in the S Corp
 - Shareholders must report their pro rata share of S Corp's separately stated items of income and non separately stated items of income or loss
 - S Corp shareholder is not subject to self-employment tax
 - No special allocation to shareholders

C Corporations

- Ownership issues
 - No limit on the number of shareholders
 - There can be different classes of shares
 - Centralized management – board of directors runs the company and is elected by the shareholders
 - Shares can be freely transferred between owners
- Liability issues
 - Shareholders are not personally liable for the actions of the corporation
- How to form
 - Draft articles of incorporation that includes a description of the business, name of business, number of shares, types of shares, name of registered agent, and address of registered office
 - Must file with the state a Certificate of Incorporation

C Corporations

- Operation-tax considerations
 - Formation of C Corp is usually nontaxable
 - C Corps are taxed as a separate entity from its shareholders
 - Shareholders are only taxed on distributions they receive from the C Corp
 - Losses are not deductible by the shareholder
 - May be subject to alternative minimum tax
 - Capital gains are taxed at the same rate as ordinary income
 - Capital losses are allowed only to the extent of capital gains – may be carried back three years and forward five years

Conclusions & Important Questions

- Liability considerations – relevant or not
 - Will the business generate losses in the early stages; if so, how will they be funded? (debt or equity)
 - Will initial equity have different ownership or preference rights?
 - Is there a possibility for the future need to raise additional capital?
 - Does the nature of business require significant capital accumulation for expansion? (equipment, facilities, etc.)
 - manufacturing vs. technology vs. services
 - What is the future plan longer term? (exit via sale or succession to other family members and/or management)



Questions?

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