

THE TAX X IMPACT OF SELLING YOUR BUSINESS

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WHAT DRIVES TAX OUTCOMES?

Tax results can vary based on:

- Entity type (S Corp, C Corp, Partnership/LLC)
- Underlying basis in your stock and/or assets
- Asset mix (equipment, receivables, goodwill, IP, etc.)
- State footprint (where the business operates and files)

Small differences in basis or asset mix can meaningfully change after-tax proceeds.

ASSET SALE VS. STOCK SALE

Asset sales are structured as a purchase of the company's underlying assets (with a negotiated allocation across each asset)

Stock or equity sales are structured as a purchase of the seller's shares or units.

LEGAL STRUCTURE \neq TAX TREATMENT

Deal structure has both a legal form and a tax outcome – and they don't always match.

A deal can be a "stock sale" on paper but treated like an asset sale for tax purposes through elections or restructuring (and vice versa).

Understanding that difference early can expand the options on the table and help both sides reach a structure that works in terms of overall economics, risk allocation, and closing mechanics.

S CORPORATIONS

KEY TAX DRIVERS

CAPITAL GAIN VS. ORDINARY INCOME

In an asset sale:

Seller proceeds may be taxed as a blend of capital gain and ordinary income, depending on asset mix and allocation.

The **same purchase price can produce different after-tax outcomes** based on how value is allocated.

In a stock sale:

Seller gain is generally taxed at capital gains rates (sale proceeds – stock basis).

CAPITAL VS. ORDINARY GAIN

Capital gain examples:

- Stock sale gain (in many cases)
- Goodwill / going-concern value (often)

Ordinary income examples:

- Depreciation/amortization “recapture”
- Cash-basis receivables
- Certain inventory-related items

STATE TAX FOOTPRINT

In an asset sale:

Multi-state businesses may face additional state tax filings/exposure tied to where the business operates.

In a stock sale:

State tax treatment is often simpler and usually depends on residency.

In asset sales, **character of gain and state footprint** often drive the biggest after-tax differences.

BUYER BASIS CONSIDERATIONS

An asset sale:

May create a stepped-up tax basis in acquired assets for the buyer (driving future depreciation/amortization deductions).

A stock sale:

Typically does not create a stepped-up basis in underlying assets (unless certain elections/restructuring steps are used).

TYPE F REORGANIZATION

A pre-transaction restructuring is sometimes used to align tax outcomes and simplify execution

1. Operating entity is dropped under a new S Corp holding company
2. Operating entity converted to an LLC
3. Buyer purchases LLC interests from the new holding company

Type F reorganizations are increasingly common and should be evaluated early with tax and legal advisors.

HISTORICAL EXPOSURES

In most cases, regardless of deal structure, these are negotiated items handled through other deal terms and protections such as indemnities, escrows, or representations and warranties insurance

PARTNERSHIPS & LLCs

TREATED AS ASSET SALES

For most Partnerships/LLCs, **unit sales and asset sales are treated as asset sales** for tax purposes.

Gain may include capital gains and ordinary income, depending on asset types, and multi-state tax exposure may apply.

Partnership/LLC "character of gain" rules can materially impact after-tax outcomes.

C CORPORATIONS

ADDITIONAL TAX LAYERS

ASSET SALE

In an asset sale, the company sells assets, then distributes proceeds to shareholders.

Tax may apply at the corporate level, and again when proceeds are distributed to shareholders.

May still create a stepped-up basis in acquired assets for buyers.

STOCK SALE

In a stock sale, shareholders generally recognize one layer of tax at capital gains rates.



QUALIFIED SMALL BUSINESS STOCK

If the shares of the C Corp are Qualified Small Business Stock (QSBS), a stock sale may allow partial or substantial gain exclusion

QSBS benefits typically do not apply to asset sales, so if QSBS is in play, it can materially influence structure and timing decisions.

For C Corps, **modeling total tax across both the company and shareholders** is especially important.

QUESTIONS

TO ASK
EARLY

ASK YOUR TAX ADVISOR

- What's the estimated after-tax proceeds under asset vs. stock scenarios?
- How much gain is expected to be ordinary vs. capital?
- Do we have multi-state exposure that changes the outcome?
- Are there restructuring steps (elections / Type F) worth evaluating early?

ASK THE BUYER

- How do you typically handle historical exposures (escrow, indemnities, RWI)?
- What factors are influencing the proposed structure (tax, risk, integration, operational goals)?
- Are you open to multiple structures (asset vs. stock vs. Type F) if economics align?

STRUCTURE IS A TAX + ALIGNMENT DECISION

With upfront planning and strong alignment, many transactions can be structured in ways that are mutually beneficial – balancing after-tax proceeds, risk protection, and long-term partnership goals.

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