

The Tax Reform Act – Where Are We Now?

Federal Tax Update

27th Annual LLCs, LPs and Partnerships

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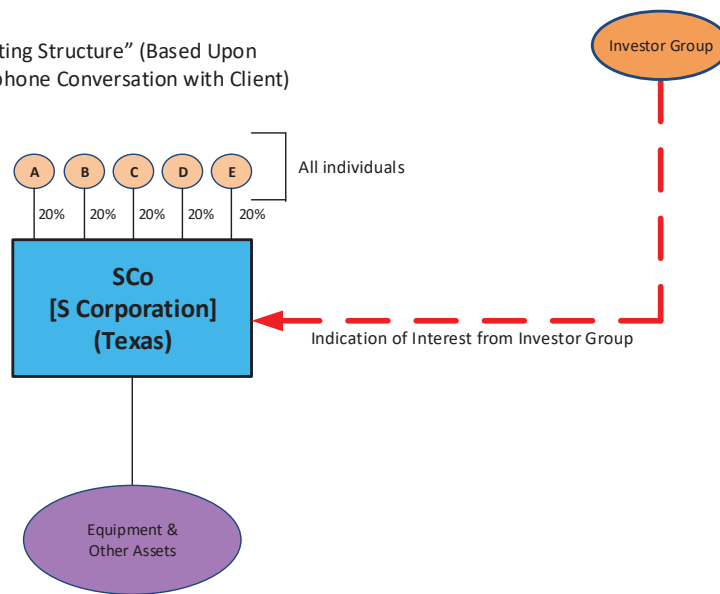
BASIC FACT PATTERN

S corporation is considering dropping most of its assets down to a new LLC, either before new investors come in or in connection with a transaction in which the new investors put their investment in the new LLC while the founders continue to own all of the existing S-corporation. Alternatively, if the founders want to take some cash out of the business now, the drop down could be partially in exchange for units in the LLC and partly in cash, which the S-corporation parent could then distribute to its shareholders.

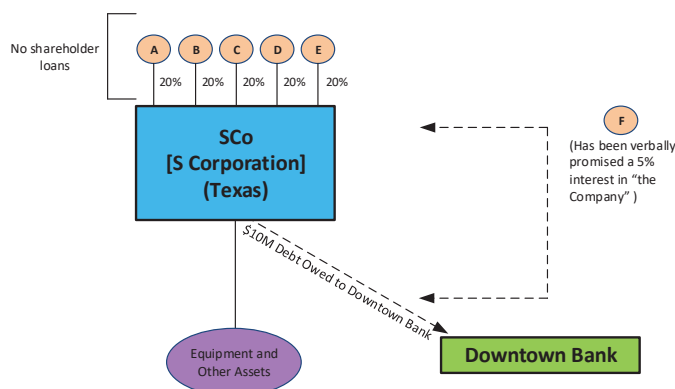
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Base Case – Based Upon Telephone Conversation with Client

“Existing Structure” (Based Upon Telephone Conversation with Client)



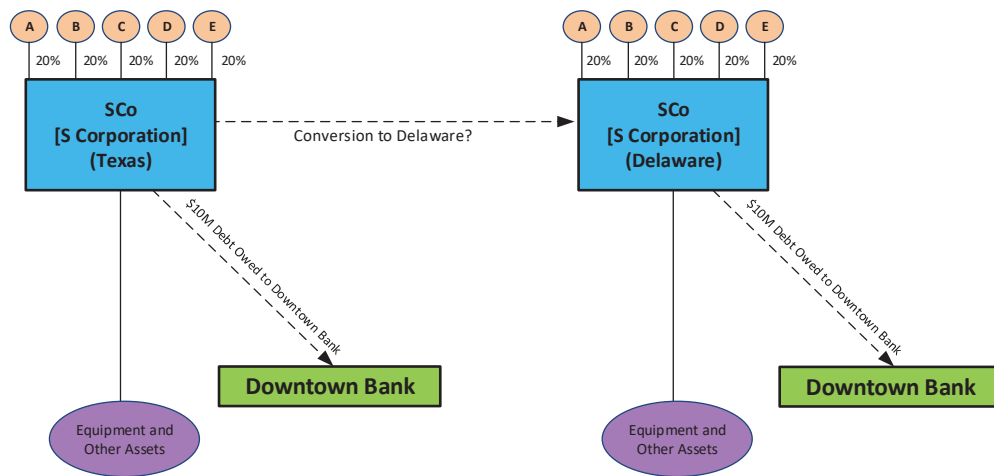
Pre-Transaction Due Diligence Review of Structure and Organizational Documents



Due Diligence Fact Sheet

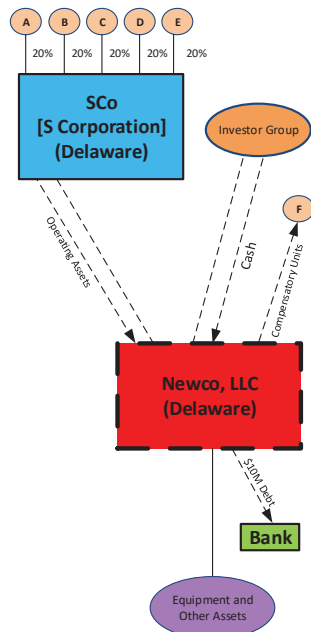
1. **Date of Formation of SCo:** SCo formed in Texas on 1/1/2005.
2. **Debts:** SCo is the primary obligor on a \$10M loan from Downtown Bank.
3. **Promise to Key Employee F:** Sometime in 2015, President of SCo verbally promised key employee F a "5% interest in the Company." The promise was never memorialized in writing.
4. **Tax Returns:** SCo has timely filed all U.S. federal income tax returns.
5. **State Taxes:**
 - a. **Texas:** SCo has timely filed all margin tax reports in Texas.
 - b. **Other States:** The President of SCo indicates that SCo may be doing business in several states, but has not qualified to do business in those states and has not filed tax returns in those states.

Conversion Considerations



Proposed Investment Structure (with Compensatory Units)

Limited Liability Company Model (with Compensatory Units)



Proposed Transactional Steps

1. Step 1: SCo and Investor Group jointly form a Limited Liability Company
2. The following would occur simultaneously:
 - a. Step 2(a) : SCo would contribute 100% of its operating assets to Newco LLC in exchange for LLC
 - b. Step 2(b): Investor Group would contribute cash to Newco LLC in exchange for LLC Units.
3. Newco LLC would grant a profits interest [with a back end allocation] to F.

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