UTLAW CLE DURING DE LINITERSITY OF TEXAS SCHOOL OF LAW UNINCORPORTATE A CONTRACT OF LAW UNINCOMPOSITION OF LAW SCHOOL OF LAW UNINCOMPOSITION OF LAW UNINCOMPOSITION OF LAW SCHOOL O

## To Redeem or Not to Redeem?

- "Redemption" conceptually limited by TBOC to partner's withdrawal matters, not defined for LLC interests
- "Withdrawal" unilateral action by the seller that carries consequences for the company
- Style reacquisition agreements as purchase/repurchase agreements

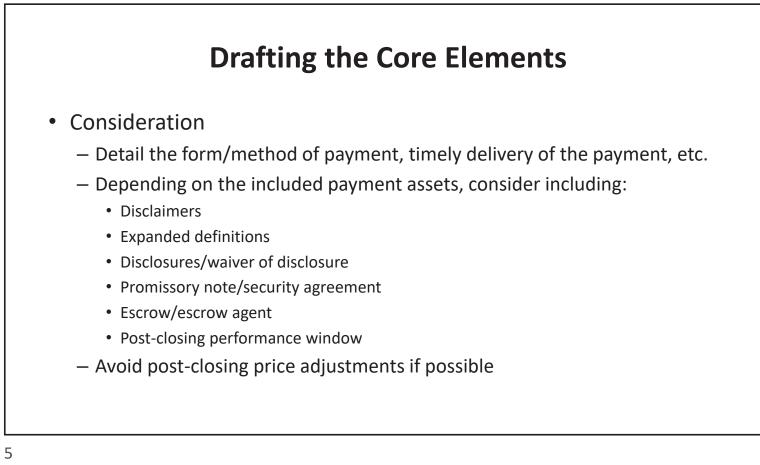
1

## **Drafting the Core Elements**

- Recitals
  - a formal statement or setting forth of some matter of fact, in any deed or writing, in order to explain the reasons upon which the transaction is founded
  - Helps third-party reviewers to understand the nature of the transaction in question
  - Can potentially be used to make written representations for the buyer/seller

## **Drafting the Core Elements**

- Picking an Effective Date
  - Mutually agreed upon by the parties
  - Reflects the original agreement to the transaction
  - Tied to some specific event, such as the execution/closing date
  - Specific or retroactive dates?
    - Ok if not detrimental to a third party
    - may or may not be accepted by the IRS





- Closing
  - Intent is to provide certainty regarding the actual exchange of items between the seller and buyer
  - Separate closings are not always necessary
    - Can perform a "sign and close" instead
  - Generally choose a closing date that is later than the effective date
    - Allows time for representations and warranties information discovery
    - Allows time for buyer/seller to satisfy their representations and warranties, and to obtain all necessary sums or proofs of payment
    - But watch out for conflicts with retroactive effective dates

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

## Title search: Unincorporated Entity Owner Buyouts from the Inside Part 2: Drafting the Purchase Agreement

Also available as part of the eCourse <u>Unincorporated Entities: Purchases and Sales of Interests and Owner Buyouts</u>

First appeared as part of the conference materials for the 30<sup>th</sup> Annual LLCs, LPs and Partnerships session "Unincorporated Entity Owner Buyouts from the Inside Part 2"