

III.C.2. Flow-Through Entities

Introduction

Some tax shelters use flow-through entities to help achieve their desired results. The entities used are Sub S Corporations, Partnerships, TEFRA Partnerships, and Trusts.

Subchapter S-Sub S corporations are small corporations (limited to 75 shareholders) taxed under Subchapter S of the Code, IRC sections 1361-1379. Also, all of Subchapter C (sections 301-385) applies to S corps. unless specifically overridden by Subchapter S.

Sub. S corps. use tax shelters to generate losses for individuals and create another layer of complexity to the transaction, usually in connection with partnerships.

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Continued on next page

III.C.2. Flow-Through Entities, Continued

Introduction

Partnerships-Partnerships are taxed under Chapter K of the Code, sections 701-761. Partnerships now make up roughly 40 percent of filings.

Tax shelters use partnerships by abusing the flexibility of partnership law. For example, they allocate income to a non-taxable entity and expenses to a taxable U.S. entity.

The Technical Advisor for Partnerships is Rod Oakes.

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TEFRA-These are partnerships taxed under the Tax Equity and Fiscal Responsibility Act of 1982, IRC sections 6221-6233.

These code sections deal with certain administrative and procedural issues dealing with partnerships. The tax law is the same, and therefore, partnerships under TEFRA would use tax shelters the same way as regular partnerships.

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Trusts-Trusts will be discussed later on under SB/SE

Continued on next page

III.C.2. Flow-Through Entities, Continued

**Program
Manager**

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**Trusts
SB/SE**

Trusts are taxed under IRC sections 641-691.

Tax Shelters use Trusts to write off personal expenses or change character and source of income and expenses.

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Web Site

There is a Flow-Through Entity and Abusive Tax Shelters web site in SBSE. The address is:

<http://abusiveshelter.web.irs.gov>

This web site provides a wealth of information on trusts and other passthroughs. If your taxpayer is using trusts that you think may be abusive, take a look at this web site.

Trusts

http://abusiveshelter.web.irs.gov/Research/18_02_plan.htm

Continued on next page

III.C.2. Flow-Through Entities, Continued

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