

Pay Me MORE Money?



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John Edwards Tax Strategy

- S Corp Law Practice
- \$26 Million in Income
- \$360,000 Salary
- Remainder Dividends
- \$754,000 Tax Savings

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2012 Tax Rates

Individual	35
Dividends	15
Self-Employment	13.3
LT Capital Gains	15

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Bush Tax Cuts Expire - Highest Tax Rates

Individual	39.6
Dividends	39.6
LT Capital Gains	20.0
ST Capital Gains	39.6

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New 2013 Medicare Unearned Income Tax

- 3.8% Tax on Net Investment Income
- High Earners Only
- Interest, Dividends, Gains
- Not Trade or Business Income

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Combined Tax Rates - AGI > \$250,000

Individual	43.4
Dividends	43.4
LT Capital Gains	23.8
ST Capital Gains	43.4

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Compare Tax Rates - AGI > \$250,000

	<u>2012</u>	<u>2013</u>
Individual	35	43.4
Dividends	15	43.4
LT Capital Gains	15	23.8
ST Capital Gains	35	43.4

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2012 Corporate Double Tax

	<u>Rate</u>
Corporate	35
Shareholder	15
Combined	44.75

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Tax Cuts Expire: Corporate Double Tax

	<u>Rate</u>
Corporate	35
Shareholder	43.4
Combined	68

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Payroll Tax Changes - Social Security

	2012	2013
Employer	6.2	6.2
Employee	4.2	6.2
Total	10.4	12.4
Base	\$110,100	\$113,700

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Payroll Tax Changes - Medicare

	2012	2013 < \$250,000	2013 > \$250,000
Employer	1.45	1.45	1.45
Employee	1.45	1.45	2.35
Total	2.90	2.90	3.80

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S Corporations - Dividend v. Salary

- No Corporate-Level Tax
- Income Flows Through
- S Corp Earnings Not SE Income
- Salary Subject to FICA

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S Corporation - All Salary

A diagram showing a person icon at the top, with an arrow pointing down to a box labeled "S Corp.". Below the box, it says "Generates \$1,000,000 Income".

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S Corporation - All Salary

	2012	2013
Salary	\$1,000,000	\$1,000,000
Tax	390,450	445,849

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S Corporation - All Dividends

A diagram showing a person icon at the top, with an arrow pointing down to a box labeled "S Corp.". Below the box, it says "Generates \$1,000,000 Income".

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S Corporation - All Dividends

	2012	2013
Dividend	\$1,000,000	\$1,000,000
Tax	350,000	396,000

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Abusive Cases (Zero Salary)

- Rev. Rul. 74-44
- Radke Case
- Spicer Accounting
- Grey Cases

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Compensation Deduction



- Intent Test
- Reasonableness Test


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Intent

- Employer View
- How Treated

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Reasonableness Test



- Question of Fact
- Multi-Factor Test

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Reasonableness



- Employee Performance
- Salary Comparisons
- Company Conditions

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JD & Associates Case

- CPA Firm
- Sole Owner
- Paid Salary of around \$30,000
- Firm Profits around \$100,000

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JD & Associates Case

- Employee Performance
- Salary Comparison
- Company Conditions

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JD & Associates Case



- Risk Management Analysis Survey
- High Profitability = Upper Quartile
- Salary Increased to \$80,000

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Fact Sheet 2008-25

- Timing & Manner of Bonus Payment
- Comparable Businesses
- Compensation Agreements
- Compensation Formula

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Fact Sheet 2008-25

- Training & Experience
- Duties & Responsibilities
- Time & Effort
- Dividend History
- Payments to Non-Shareholders

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Watson Case



- CPA Firm
- \$24,000 Salary
- Firm Profit Share Around \$225,000

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Watson Case - IRS Expert



- In-house Engineer
- 20-30 Cases
- Reviewed Outside Studies

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Watson Case - IRS Expert



- Firm Profitable
- Salary-to-Revenue Below Average
- Paid Less Than College Graduates

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Watson Case - Holding

- Salary Increased to \$90,000
- Use of Intermediary Irrelevant
- Adjustment Spread Evenly

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Analysis & Considerations

- Company Conditions
- Compare With Other Shareholders
- Timing of Payments
- Expert Concerns
- Penalties
- Texas Franchise Tax
- Use Excessive Comp Cases

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Converting C to S Corporations

- Historically Low Rates Expiring
- Low Asset Values
- No Double Taxation
- Qualifying Restrictions
- Built-In Capital Gains Tax

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C Corporation - All Dividends

TAXED

\$1,000,000 Dividend

C Corp.
TAXED

Generates \$1,000,000 Income

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C Corporation - All Dividends

	2012	2013
Dividend	\$1,000,000	\$1,000,000
Tax	447,500	680,000

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C Corporation - All Salary

TAXED



\$1,000,000 Salary

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C Corp.
DEDUCTION

Generates \$1,000,000 Income

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C Corporation - All Salary

	2012	2013
Salary	\$1,000,000	\$1,000,000
Tax	390,450	445,849

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S Corporation - Non-Abusive

\$100,000 Salary
\$900,000 Dividend

S Corp.

Generates \$1,000,000 Income

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S Corporation - Non-Abusive

	2012	2013
Salary	\$100,000	\$100,000
Dividend	900,000	900,000
Tax	363,300	411,300

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Thank You!

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PowerPoint Handout:
LAT-Seminars Website

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