

## insights

TYPES NOT MAPPED YET July 27, 2021 | TTR not mapped yet | Steve B. Gorin

# Business Owner Compensation vs. Distribution; Modifying Trusts or Their Investments in Light of Proposed Income Tax Changes

### Webinar

Drawn from Steve Gorin's 2nd quarter 2021 newsletter, this webinar discusses recent cases on when payments to owners who perform services are compensation and when are they distributions, describes issues in modifying trusts to avoid proposed taxes on distributions from trusts after December 31, 2021, and evaluates a nongrantor trust's use of annuities and life insurance to avoid proposed high income rates on dividends and capital gains.

- **Pros and cons of a C Corporation taxation structure.** We will review a 2021 case that showed what not to do when trying to compensate owners, as well as a smattering of cases and rulings from the past couple of years relating to compensating owners or key employees.
- **President Biden's proposed taxes on distributions from trusts.** We will discuss how trusts that allow distributions among various generations without requiring the trustee to apply standards can likely terminate free from any tax issues whatsoever, whereas trusts that provide more limited discretion or more well-defined rights to beneficial interests may have income and transfer tax consequences.
- **CCA 202118008, addressing the commutation of a QTIP trust.** As part of a coordinated plan, remaindermen agreed to a trustee distributing the entire trust to the surviving spouse. The surviving spouse, in turn, created irrevocable gift trusts for the remaindermen and allocated her GST exemption to them. We will discuss the children's arguments that they did not make a gift.
- We will briefly mention the idea of maintaining a single trust with separate shares instead of terminating a trust when the senior generation dies.
- The **Biden proposal to tax capital gains** as ordinary income for upper income taxpayers might hit trusts hard, given that they reach the top bracket quickly. We will discuss unique tax issues when using an annuity contract or life insurance policy to try to avoid this drag.

### CLE

The live presentation of this webinar was approved for 1.5 hours of general CLE credit in California, Illinois, New Jersey, New York, and Texas and 1.8 hours of general CLE credit in Missouri. CLE credit is no longer available for this recording.

Presenter:

[Steve Gorin](#)

*Please note that this is a 90-minute webinar*

*For technical materials supporting the slides, please see Steve's newsletter.*

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