

S ENTITY ELECTIONS

THE GOOD, THE BAD, AND THE IRS

WHAT IS AN S “CORPORATION”?

AN S “CORPORATION” IS NOT ACTUALLY AN ENTITY; IT IS AN IRS TAX ELECTION THAT IS MADE TO EITHER A C CORPORATION OR AN LLC.

AN S ENTITY DOES NOT HAVE ITS OWN LEGAL IDENTITY, AS DOES A TRUE C CORPORATION.

AN S ELECTION WAS INTRODUCED AS A MEANS FOR TAXPAYERS STARTING A BUSINESS TO TAKE ADVANTAGE OF SOME OF THE BENEFITS ALLOWED TO A CORPORATION WHILE ALLOWING LOSSES TO FLOW TO THE INDIVIDUAL TAXPAYER.

QUALIFYING FOR S ELECTION STATUS

THE FOLLOWING 5 “TESTS” MUST BE MET AND SUSTAINED TO QUALIFY FOR AN S ELECTION:

- 1. IT MUST BE A DOMESTIC CORPORATION.**
- 2. IT CAN HAVE NO MORE THAN 100 SHAREHOLDERS.**
- 3. THE SHAREHOLDERS CAN ONLY BE INDIVIDUALS, ESTATES, AND CERTAIN TRUSTS.**
- 4. IT CANNOT HAVE A NONRESIDENT ALIEN AS A SHAREHOLDER.**
- 5. IT CAN ONLY HAVE ONE CLASS OF STOCK.**

ADVANTAGES OF AN S ELECTION

- ❖ **AVOID DOUBLE TAXATION.**
- ❖ **LOSSES INCURRED BY AN S ELECTION FLOW TO THE INDIVIDUAL SHAREHOLDERS PERSONAL RETURNS.**
- ❖ **ESCAPES THE ACCUMULATED EARNINGS TAX THAT MAY BE LEVIED ON RETAINED EARNINGS IN A CORPORATION IN EXCESS OF \$250,000.**
- ❖ **AVOIDS FLAT 20% AMT WHICH CAN BE LEVIED TO A CORPORATION AFTER YEARLY EXEMPTION.**

DISADVANTAGES OF AN S ELECTION

- ❖ LOST FRINGE BENEFITS OTHERWISE AVAILABLE TO A C CORPORATION. BY EXAMPLE:
 - ❖ MEDICAL REIMBURSEMENT.
 - ❖ ACCIDENT AND DISABILITY REIMBURSEMENT.
 - ❖ GROUP-TERM LIFE INSURANCE.
- ❖ SHAREHOLDER RESTRICTIONS: SHAREHOLDERS TAXED FOR ANY AND ALL INCOME OF THE COMPANY, EVEN IF NO PORTION OF THE INCOME IS RECEIVED.
- ❖ OFFICERS AND OWNERS MUST TAKE A SALARY FROM DAY 1 OF OPERATIONS, SO IF NOT PROFITABLE, INCUR DEBT FROM THE ONSET.

DISADVANTAGES OF AN S ELECTION:

AND MOST IMPORTANTLY:

WHEN AN S ELECTION ENTITY BECOMES PROFITABLE, THE PROFIT WILL BE REPORTED THROUGH THE INDIVIDUALS 1040 SCHEDULE E, AND WILL THEN BE REFLECTED ON LINE 17 OF THE INDIVIDUALS 1040 INCOME, THUS PLACING THE INDIVIDUAL IN THE HIGHEST TAX BRAKET.

PRACTICAL ADVICE AND “FOOD FOR THOUGHT”

MYTH:

WHEN AN S ELECTION IS MADE, MANY ADVISORS, ATTORNEYS AND ACCOUNTANTS, MAKE THE MISTAKE IN THINKING THAT THEY CAN CHANGE THE ELECTION AT ANY GIVEN TIME, THUS AVOIDING THE HAZARD OF A COMPANY BECOMING HIGHLY PROFITABLE EARLY IN ITS LIFE.

FACT:

YOU CANNOT CHANGE AN S ELECTION FOR A MINIMUM OF 5 YEARS FROM THE DATE OF SUCH ELECTION.

PRACTICAL ADVICE AND “FOOD FOR THOUGHT”

FACT:

S ELECTIONS ARE POPULAR WITH ACCOUNTANTS BECAUSE OF THEIR RELATIVE SIMPLICITY IN COMPILING TAX RETURNS.

FACT:

S ELECTION ENTITIES ARE TARGETED BY THE IRS AND ARE THE HIGHEST AUDITED “ENTITY”.

AND WHAT ABOUT THE IRS?

THE IRS HAS TARGETED S ELECTED ENTITIES SINCE THEIR INCEPTION. THERE ARE MANY REASONS FOR THIS, BUT A FEW OF THE MOST POPULAR WITH THE IRS ARE:

- ❖ SINCE S ELECTED ENTITIES ARE OFTEN FAMILY OWNED, THEY HAVE BECOME AN ABUSED FORM OF ESTATE PLANNING WHERE FOUNDERS OF THE S ENTITY MANIPULATE STOCK TRANSFERS TO OTHER GENERATIONS IN AN ATTEMPT TO AVOID ESTATE TAXES.

AND WHAT ABOUT THE IRS?

- ❖ AFTER 9/11, IT WAS DISCOVERED THAT S ELECTED ENTITIES HAD BEEN HIGHLY UTILIZED BY NATIONALIZED TERRORISTS TO FUNNEL INTERNATIONAL TERRORIST FUNDS INTO THE UNITED STATES.
- ❖ AGAIN, AS IS THE PERCEPTION OF MANY ACCOUNTANTS, IT IS AN EASY TARGET: YOU HAVE AN S ELECTED ENTITY THAT, WHILE IT FILES ITS OWN RETURN (1120S), FLOWS TO THE PERSONAL RETURN. IT IS EASY TO IDENTITY BLATANT ERRORS IN THE RECONCILIATION OF THE TWO RETURNS.

PRACTICE TIP

SINCE THE S ELECTION, ONCE MADE, REMAINS IN EFFECT FOR A MINIMUM OF 5 YEARS, THE SMARTEST THING A PRACTITIONER CAN DO WITH A START-UP BUSINESS THAT IS OPERATING AS AN LLC OR PLLC IS NOTHING!

BY DEFAULT, AN LLC OR PLLC THAT DOES NOT MAKE AN ELECTION WILL BE TREATED AS A PARTNERSHIP BY THE IRS. THUS, THE LOSSES CAN FLOW TO THE INDIVIDUAL MEMBERS, AND WHEN THE LLC OR PLLC BECOMES PROFITABLE, AN ELECTION FOR C TAX TREATMENT CAN BE MADE TO STOP THE FLOW TO THE PERSONAL RETURN.

UNFORTUNATELY, AND PROBABLY OBVIOUSLY, THIS DOES NOT APPLY TO A C CORPORATION. IT IS C OR S. THAT'S IT.

WEALTH
MANAGEMENT
SYSTEMS



SUSTAINED GROWTH...

TAX PLANNING, ASSET PROTECTION,
BUSINESS PLANNING AND
TRUST AND ESTATE ADVISING

OUR METHOD
AN EXAMPLE IN STRUCTURING
THAT RESULTS IN MAXIMUM TAX SAVINGS
FOR YOUR CLIENT*

**ALL INFORMATION CONTAINED HEREIN IS PROPRIETARY AND CONFIDENTIAL TO WEALTH MANAGEMENT CONSULTANTS, L.L.C.*

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- Myth: The medical malpractice crisis is not really that widespread nor as much of a crisis as some suggest.
- Reality: There are an average of **125,000** malpractice claims pending in the United States per day.
- Myth: Physicians can practice medicine in any manner and structure.
- Reality: Every state has medical practitioner statutes that stipulate how a physician or health care practitioner can practice medicine: as a sole practitioner, or as a structured medical association. If you violate the guidelines, are sued, and incur a judgment, you will lose *everything*.
- Myth: The medical crisis involves negligent doctors, not runaway juries.
- Reality: There is *no* correlation between medical negligence and jury awards.
- Myth: There is only minimal chance that I will be sued as a physician: so I do not need to worry about the potential consequences.
- Reality: The Harvard Medical Practice Study determined that **every** Doctor will be **sued at least once** during their career.

INDIVIDUAL
RETIREMENT
SYSTEMS



PERFECT BALANCE...
FINANCIAL FREEDOM,
GROWTH AND SECURITY

- Fact: The average Doctor has an **effective tax rate of 38%**. What does this mean? If you have gross income of \$100,000, you pay the government \$38,000, leaving you only \$62,000 with which to support yourself, your family, and, of course, repay your student loans which, for Doctors, average \$380,000.
- Fact: A lack of proper planning will force you to work harder, work longer, depreciate your cash flow, cause tremendous personal and professional stress, and leave you watching from the sidelines when your friends retire...and you continue to work.
- Fact: Proper tax planning increases your cash flow. You, as Doctors, especially need cash.
- Fact: Proper business planning and asset structuring will serve as a **deterrent** to malpractice claims. Let your unprepared colleagues get sued: protect yourselves.
- Fact: Proper retirement strategies, when combined with the above, will allow you to build your wealth and retire...**EARLY**.
- Fact: It is a **wonderful** feeling to pay yourself, not the government, and not disgruntled patients.

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SUSTAINED GROWTH...

TAX PLANNING, ASSET PROTECTION,
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STEP ONE: FORMAT HUSBAND

**Mark K. Werking,
D.C., S.C.**

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BUSINESS PLANNING AND
TRUST AND ESTATE ADVISING

Wellness & Extremities
Solutions, L.L.C.

Mark K. Werking,
D.C., S.C.

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SUSTAINED GROWTH...

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STEP TWO: FORMAT WIFE

Janet's Nutrition, L.L.C.

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SUSTAINED GROWTH...

TAX PLANNING, ASSET PROTECTION,
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STEP THREE: PROTECT THE PROPERTIES

CA Rental, L.L.C.

FL Rental, L.L.C. 1

FL Commercial
L.L.C.

TN Rental, L.L.C.

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TAX PLANNING, ASSET PROTECTION,
BUSINESS PLANNING AND
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STEP FOUR:

DETERMINE TAX ELECTIONS

Wellness & Extremities Solutions, L.L.C.
C-Election

Mark K. Werking, D.C., S.C.

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BUSINESS PLANNING AND
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Janet's Nutrition, L.L.C. C-Election

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CA Rental, L.L.C.
C-Election

FL Rental, L.L.C.
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P-Election

FL Commercial
L.L.C.
C-Election

TN Rental, L.L.C.
C-Election

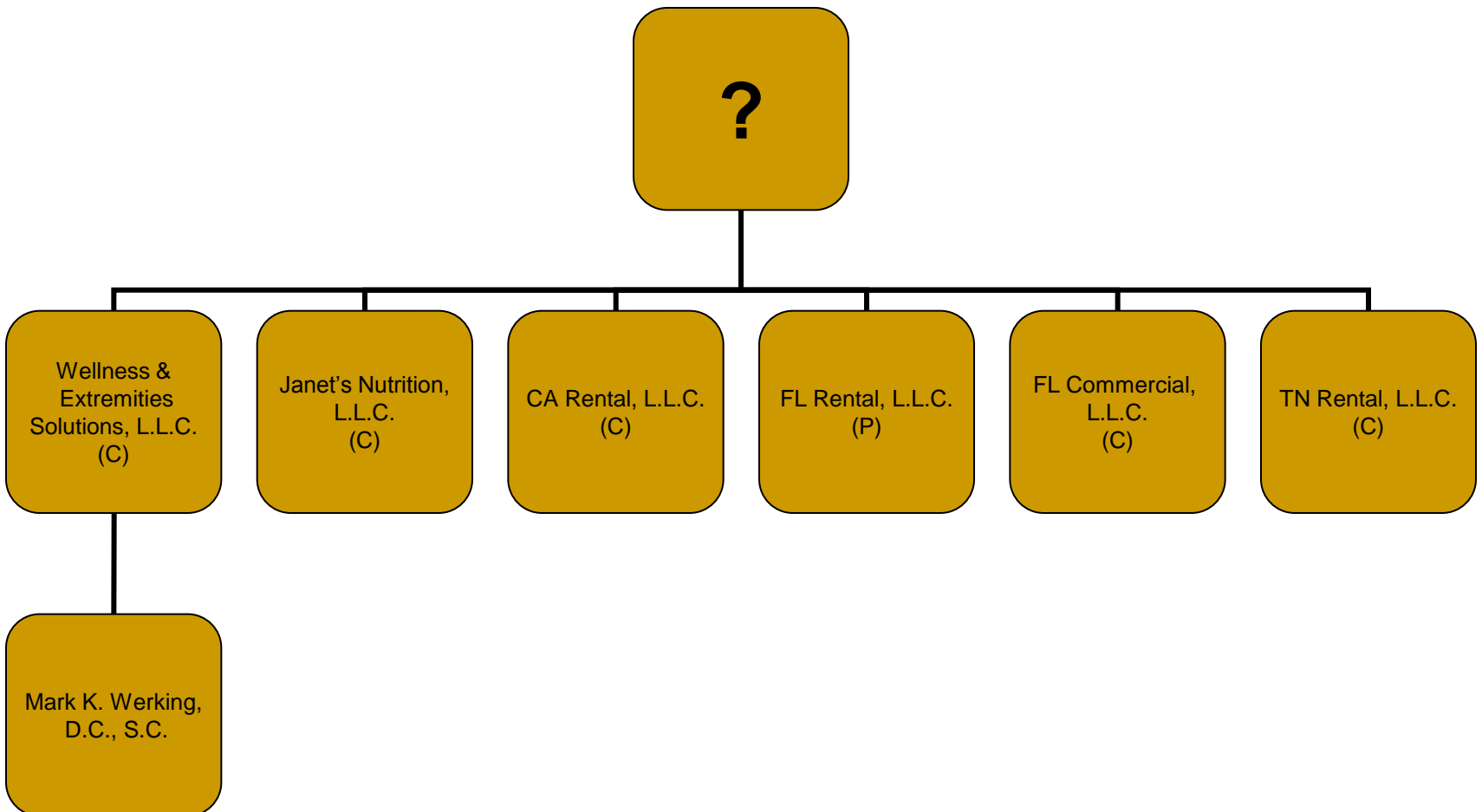
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SUSTAINED GROWTH...

TAX PLANNING, ASSET PROTECTION,
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WHERE ARE WE NOW?



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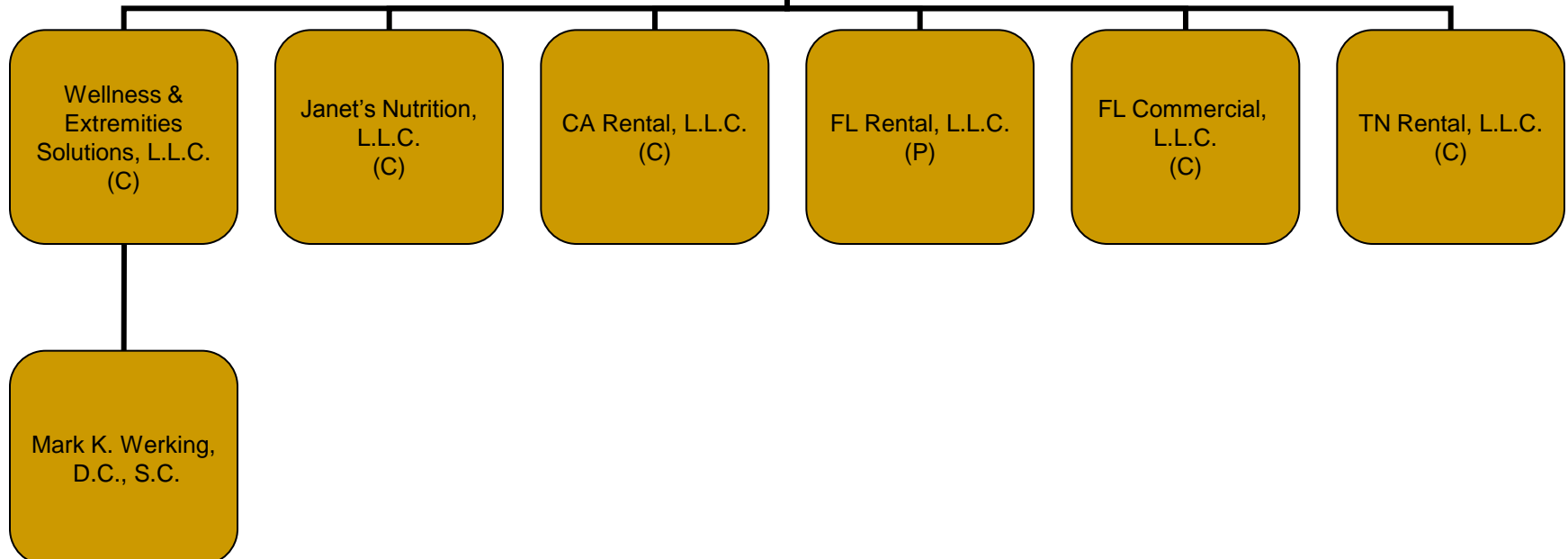
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STEP FIVE:

FORM A "C" CORPORATION

**Extremity
Solutions,
Inc.**



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TAX PLANNING, ASSET PROTECTION,
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STEP SIX: CLEAN UP!

Extremity
Solutions,
Inc.

Wellness &
Extremities
Solutions, L.L.C.
(C)

Janet's Nutrition,
L.L.C.
(C)

Werking Management,
Inc.

Mark K. Werking,
D.C., S.C.

CA Rental, L.L.C.
(C)

FL Rental, L.L.C.
(P)

FL Commercial,
L.L.C.
(C)

TN Rental, L.L.C.
(C)

INDIVIDUAL
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PERFECT BALANCE...
FINANCIAL FREEDOM,
GROWTH AND SECURITY

**STEP SEVEN:
ESTABLISH AN INDIVIDUAL RETIREMENT SYSTEM**

Mark K. Werking
Roth IRA

Janet L. Werking
Roth IRA

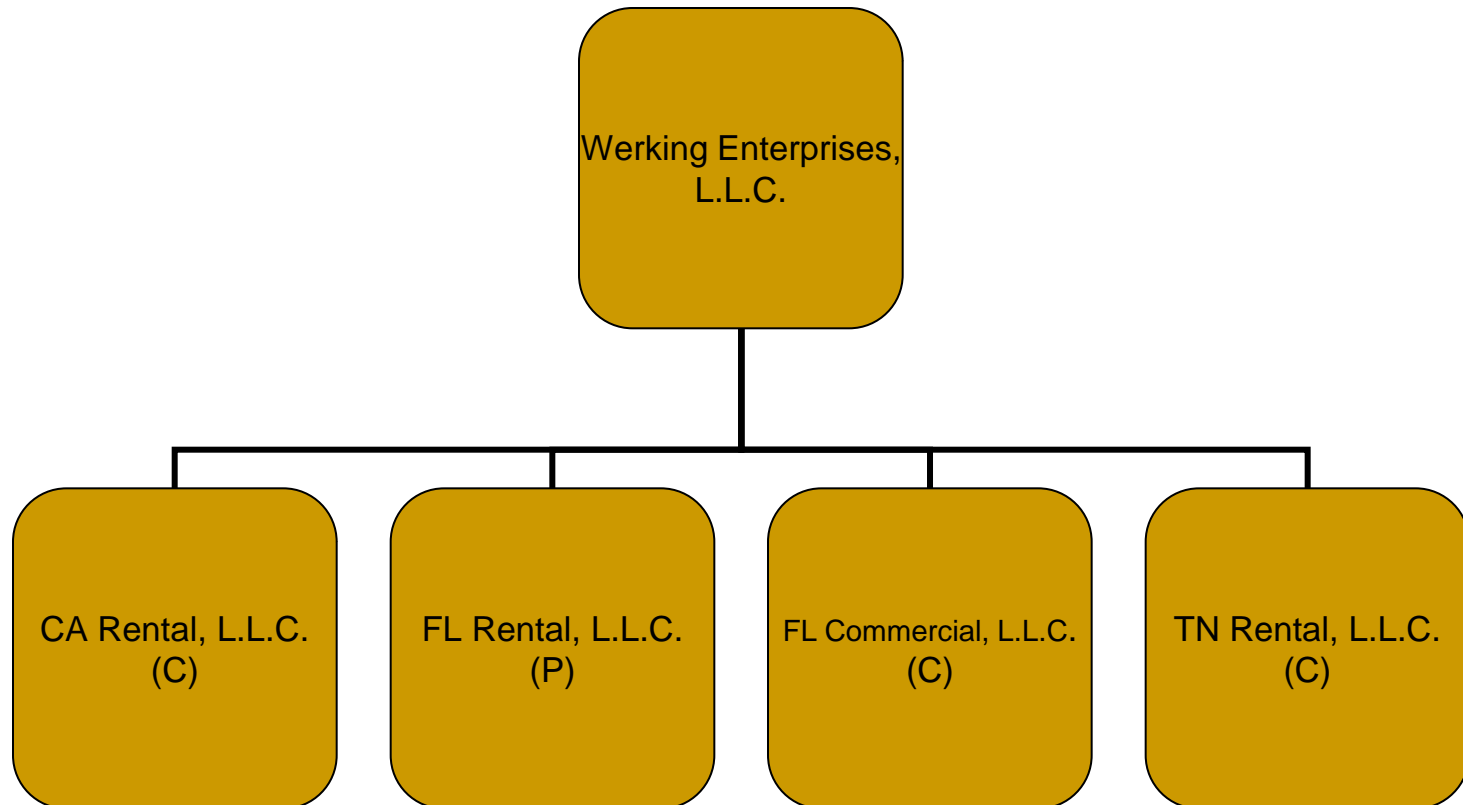
Werking Enterprises,
L.L.C.

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STEP EIGHT: MOVE ASSETS



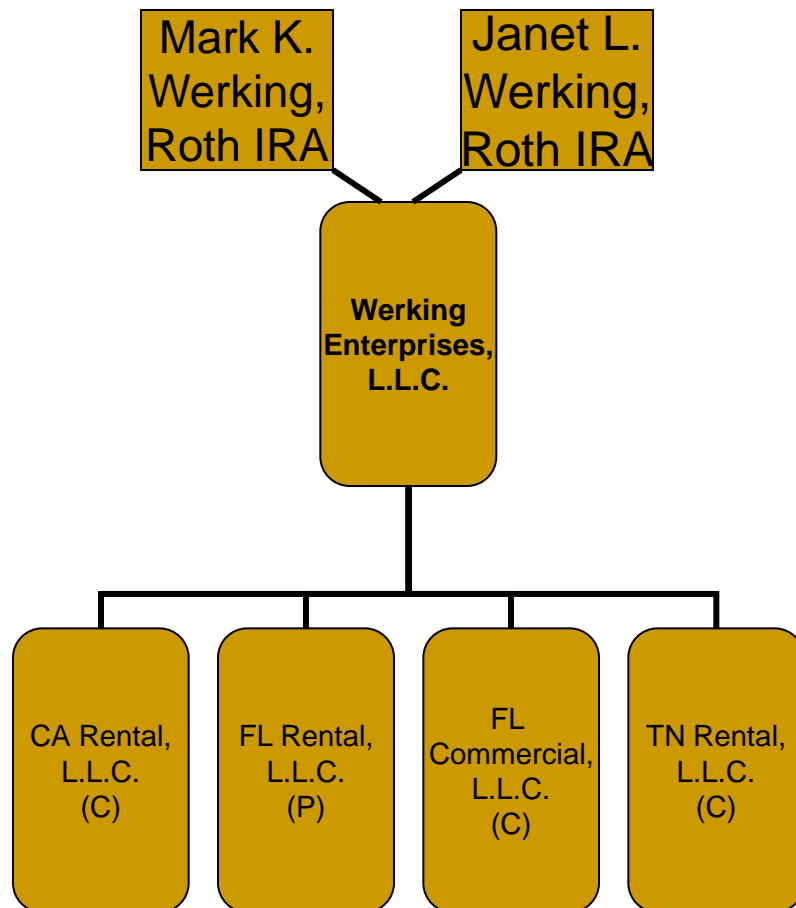
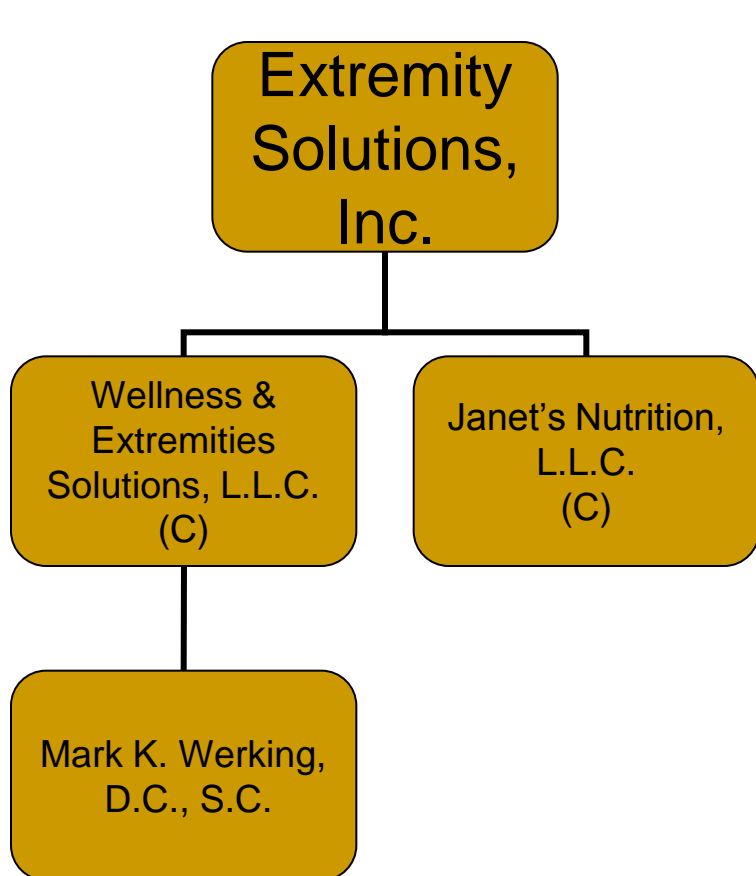
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PERFECT BALANCE...
FINANCIAL FREEDOM,
GROWTH AND SECURITY

STEP NINE:

PUT IT ALL TOGETHER



The Federal Effective Tax Rate determines the **effectiveness of tax planning**. It is calculated by dividing the taxpayer's tax liability by the taxpayer's total amount

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SUSTAINED GROWTH...

TAX PLANNING, ASSET PROTECTION,
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A THREE-YEAR COMPARISON OF THE 1040

Gross Income	2007	2008	2009
Wages and salaries.....	300,000.	300,000.	51,963.
Interest and dividends.....			58,176.
Other Income.....			
Total Gross Income.....	300,000.	300,000.	110,139.
Adjustments to Income.....			
Adjusted Gross Income.....	300,000.	300,000.	110,139.
Itemized or Standard Deductions.....			
Medical expense deduction.....			
Taxes.....	7,120.	2,260.	5,670.
Interest.....	45,558.	81,753.	88,859.
Contributions.....		3,300.	
Other itemized deductions.....		(1,401.)	
Total deductions.....	49,806.	85,912.	94,529.
Exemptions.....	10,880.	20,417.	25,550.
Taxable Income.....	239,314.	193,671.	(9,940.)
Tax.....	58,174.	42,972.	0.
Alternative minimum tax.....			
Credits and Payments.....			
Withholding.....	12,000.	63,181.	77.
EIC and Additional Child Tax Credit.....			4,950.
Other payments.....			800.
Total credits and payments.....	12,000.	63,181.	5,827.
Tax liability after credits.....	46,174.	42,972.	0.
Estimated tax penalty.....			
Refund or (Balance Due).....	46,174.	20,209.	5,827.
FEDERAL EFFECTIVE TAX RATE.....	19%	14.0%	0.0%
(Tax Liability/Total Income).....			