



*Stock
Trading
Vs
Stock
Investments*

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Introduction



ACCOUNTING FIRM

NIRAJ SHAH, CPA: CEO

Niraj is a highly dynamic, versatile CPA with 15 years of experience in accounting, tax, finance, business consulting, and management. In addition, his personal experience with starting, owning, and operating successful businesses from the ground up have given him the ability to develop and implement operational systems which ensure accuracy, quality and increased productivity. His attention to detail and deep tax and accounting knowledge can guarantee he will improve your current structure and find unique solutions and innovative approaches to savings every year.

Requirements of a Trading Company

The Company must meet all the following conditions:

- The Company must seek to profit from daily market movements in the prices of securities and not from dividends, interest, or capital appreciation;
- The Company's activity must be substantial; and
- The Company must carry on the activity with continuity and regularity.

The following facts and circumstances should be considered in determining if the Company's activity is a securities trading business:

- Typical holding periods for securities bought and sold;
- The frequency and dollar amount of your trades during the year;
- The extent to which you pursue the activity to produce income for a livelihood; (Has the intention to run a business and make a living. Traders must have the intention to run a separate trading business — trading his or her own money — but it doesn't have to be The Company's exclusive or primary means of making a living. The key word is "a" living, which means it can be a supplemental living) and
- The amount of time one devote to the activity.

Requirements of a Trading Company...continued

These are purely based on trader tax court cases and other IRS and state controversy for traders. The Company must fulfill all the criteria in order to qualify for having a trader's status.

Minimum of 700 transactions per year - It must be consistent and at least 16 trades every week through out the year. Avoid sporadic lapses.

The average holding period for the securities must be 31 days or less. Long term securities can be held in personal trading account which is not linked to the trading company.

Spends more than four hours per day, almost every market day working on the Company's trading business. All-time counts, including execution of trade orders, research, administration, accounting, education, travel, meetings, and more. These four hours can be distributed in any manner among the owners of a Company.

What Doesn't Qualify

- Outside-developed automated trading systems
- Trade copying software or service
- Hiring a registered investment adviser or commodity trading adviser - whether they are duly registered or exempt from registration - to trade the Company's account does not count towards qualification. However, the Company can hire an employee or independent contractor to help trade who is trading just for the company.
- Trading retirement funds

Mark to Market (M to M) Election

Traders can choose to use the mark-to-market rules, investors cannot. If a trader makes a timely mark-to-market election, then he, she or the company can treat the gains and losses from sales of securities as ordinary gains and losses (except for securities held for investment). It is necessary to file for an election to have the company function as a trading company.

The most significant problem for investors and traders occurs when they are unable to deduct trading losses on tax returns, significantly increasing tax bills or missing opportunities for tax refunds. Investors are stuck with this problem, but business traders with trader tax status (TTS) can avoid it by filing timely elections for business ordinary tax-loss treatment: Section 475 mark-to-market (M2M) for securities and/or commodities.

Deadline of M-to-M election for 2021

Please contact us to discuss and understand when and how to file the election. The election requirements are very complicated, and they depend on an individual situation.

Process of Shah Group Consulting Assistance

First phase: Form a company - File for Mark to market election - Open a bank and a brokerage account under the company's name - Transfer the securities (Excluding the long-term ones; long term investment can be held in personal which is not linked to the trading company)

Second phase: File for your current year taxes

Third phase: Prepare a plan and set up Payroll and Quickbooks and maintain the books for the year.

Fourth phase: 2021 tax planning

Type of Entity

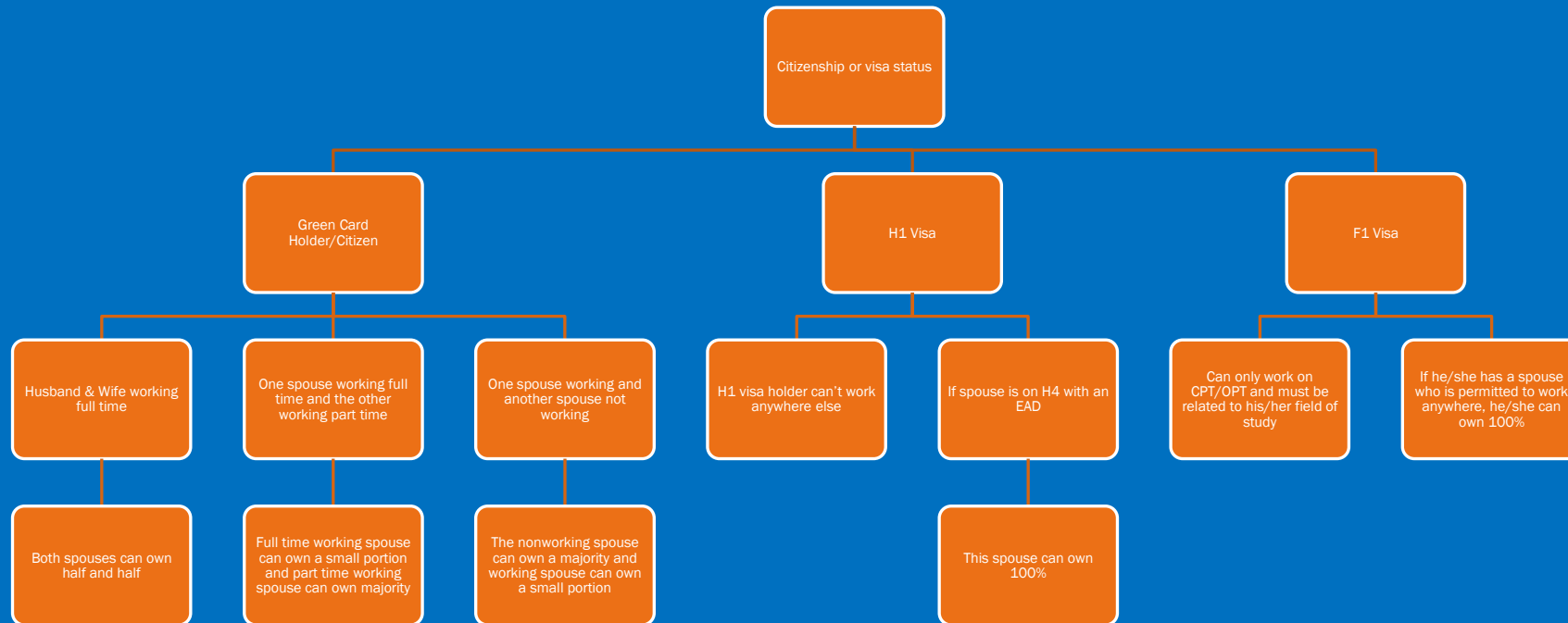
S-Corp, or LLC converted to S-Corp?

It depends on the personal and family situation, the state one currently lives in and whether one intends to move in future

If one does not intend to move, open an S-Corp directly and one who intends to move or are not sure whether they will in the future, should open an LLC and convert it to an S-Corp

Who Can Own the Company?

DEPENDS ON CITIZENSHIP OR VISA STATUS, PERSONAL AND FAMILY SITUATION



* WORKING MEANS HAVING A FULL-TIME JOB OTHER THAN TRADING

PART TIME MEANS HAVING A PART TIME JOB OTHER THAN TRADING

* THESE DO NOT ABIDE BY ANY LAWS AND ARE JUST SUGGESTIONS

Benefits of Trading Company vs an Investing Company

- **Wash Sale Adjustment:** After electing M to M election one can avoid wash sales. For example, if one has bought a stock at \$ 1,000 and sell it off at \$ 800, making \$ 200 loss; if the investors rebuy the identical stocks at \$ 700 or any price lesser than \$ 800 within 30 days, the investor can't claim that \$ 200 loss. But this law does not apply to the company/individual who elects M to M election successfully and therefore claim that \$ 200 loss as an ordinary loss and get it adjusted.
- **Offset of Losses:** An investor has a limitation of offsetting only \$ 3,000 loss in a year against other personal ordinary income. After the \$ 3,000 loss limitation against other income is applied, the rest is carried over to the following tax years. A trading company can pass the losses over to owner/owners who can write off all losses in the same calendar year.
- **Write off Expenses:** Like salary, retirement plan contribution, home office use, membership fees/dues, internet expense, computer expense, cell phone expense, etc.

Payroll and Related Benefits :

IRS requires service provider of a business to take what is called a reasonable compensation. Although there is a cost associated with payroll (such as taxes, processing fees, etc.), there are several benefits as well, such as:

Potentially reduce income by employing a child or a parent who may be in a lower tax bracket

Contributions made to retirement plans are tax-deductible

Certain amount of payroll can accrue quarters towards receiving benefits under the Social Security and Medicare funds

Taxes and processing fees are also tax-deductible

Conclusion

An individual, a couple or a group of individuals can significantly benefit from forming a trading company and filing the M-2-M election if they qualify for a trader status. All situations are unique and different. Hence, we recommend contacting us to discuss your situation to see if you qualify and/or whether the benefits available to traders are something available to your situation or not.

***Disclaimer: The final decision making is contextual or dependent on a set of circumstances.**

Fee Structure

For further details, please contact Yesha at yesha@sgccpa.us.

Our Services

- Income Tax
- Planning
- Management Consulting
- Bookkeeping
- Payroll
- Sales Tax
- Mergers & Acquisitions
- Mortgage Consulting
- Valuation
- External CFO Services
- Personal Financial Statements

Contact Information

For general queries, please email to Yesha at yesha@sgccpa.us

For opening up a new entity, please contact Ike at ike@sgccpa.us

Contact # 936-931-9022



References

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