	Slide Title	Slide Contents	Discussion/Presenter's Script	Additional Discussion and Resources	Class Engagement and Additional Resources
1	**Title Slide**	**Introduction to Farm and Ranch Taxes** **Lesson 4: Entities Training**			

2	**LL.M. PROGRAM IN AGRICULTURAL AND FOOD LAW**	40+ years of leadership in agricultural and food law Nationally recognized faculty • Specially designed courses • On-campus and distance options • For recent law graduates and experienced attorneys • Outreach and education for farms and food businesses through the Food and Ag Impact Project **Visit us at** **https://law.uark.edu/academics/llm-food-ag/**			

3	**Legal Disclaimer**	This presentation is intended to provide general information on agricultural income tax issues and should not be construed as providing legal advice. It should not be cited or relied upon as legal authority. State laws vary and no attempt is made to discuss state specific laws. For advice about how these issues might apply to your individual situation, consult an attorney.			

4	**Funding**	This material is based upon work supported by the U.S. Department of Agriculture, under agreement number FSA22CPT0012189. Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services.	This project and materials created by Poppy Davis as part of the LL.M. Program in Agricultural and Food Law at the University of Arkansas School of Law is part of the Agricultural Financial, Tax and Asset Protection program. AgFTAP.org has resources to enhance farmers, ranchers, educators, and others' ability to understand and navigate business tax and asset protection decisions.		

5	**Program Overview**	1. Filing: Federal Income Tax Filing Requirements 2. Records: Recordkeeping Requirements 3. Taxes: Individual Federal Income Tax Return 4. Entities: Business Entities and Federal Tax 5. Agricultural Income: Special Rules	There are a total of five lessons in this series. This presentation is about when businesses need to file their own tax returns. The prior presentations focused on the individual taxpayer and the tax return filed by an individual. In those presentations we talked about how income flows from a business entity (a partnership, LLC, or S-corporation) to an individual. We talked about "pass-through" income, or income that comes ***from*** a business the taxpayer owns ***to*** the taxpayer, and how it is reported on the taxpayer's return. But how exactly does it "pass-through?" The businesses owned by the taxpayer file their own tax returns, and those tax returns generate the forms the owners need to report their business income on their individual income tax returns.		

6	**Overview of Lesson 4: Entities Training**	1. Why form a business entity 2. Federal Income Tax Filing requirements for business entities	We will start out understanding a little bit more about business entities so we can understand the different federal income tax filing requirements for the different types of entities. Note that this presentation is limited to the types of entities typically used by small, for-profit farms/ranches/fishing businesses. We will talk about partnerships, limited liability companies, and S-corporations. There are many other types of business entities (not for profit corporations, cooperative corporations, and other types of corporations) but since those are not “passthrough entities” their tax requirements are not tied to the tax returns of their owners, employees, or board members.		

7	**1. Why form a business entity?**	**Section break slide - title and a picture only.**			

8	**Are you and your business the same legal person?**	As soon as you begin a business - working with the intent to profit - you are a sole proprietor. You do not have to do anything else to become a sole proprietor.	As soon as you begin a business - working with the intent to profit - you are a sole proprietor. You do not have to do anything else to become a sole proprietor. As a sole proprietor there is no legal distinction between you and your business. That means you personally are liable for all of the debts of the business and for any legal liability associated with anything the business does. If you live in a community property state, your spouse may be liable also. This is called "unlimited personal liability."	The majority of states are common law states. 9 states are community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin are community property states. Even in a common law state, if the spouse co-signs loans, the spouse will have personal liability for the debt.	Have you applied for a business or farm loan? Did the lender require your spouse to sign on the loan as either as a co- borrower or as a guarantor?

9	**What is a business entity?**	A business entity is a legal entity that is distinct from the owner. There is no legal distinction between an individual and their business if the business is a sole proprietorship. All other forms of businesses are some type of "business entity" with some type of legal distinction between the individual owners and the business itself.	Business entities were developed as a way to encourage people to take a chance on starting a business without risking all of their personal assets. Over the years new entity types have been developed to give various types of legal protections, and the tax code has changed to develop different ways to tax the different entity types.		

10	**Unlimited Liability**	When there is no legal distinction between the owner and the business the owner is responsible for any liabilities (debts, fines, or legal judgments) associated with the business.	Over the years new entity types have been developed to give various types of legal protections, and the tax code has changed to develop different ways to tax the different entity types.		

11	**Unlimited Liability and General Partnerships**	As soon as you start a business (intent to profit) with someone other than your spouse (intent to share effort and profits) you are a partnership.	If two people who are not legally married are in business together they are a general partnership whether they know it or not. Partners in a partnership have unlimited personal liability for all of the debts and liabilities of the partnership. This means that any one partner can be held responsible for 100% of a debt or other obligation of the partnership (and potentially a spouse in a community property state). A partner who has to pay all of an obligation of the partnership can sue the other partners for their share of the debt or obligation, but the point is that someone with a legitimate claim against the partnership can collect against any one partner and force any partner to use personal assets (potentially including a spouse's earnings) to pay the obligation.	Unlimited personal liability is the default when you are in business with someone to whom you are not married and do not have a formal business entity set up that limits your liability. If you are married or if you have significant personal assets, it is important to think about limiting business liability. If you are single and really do not have any personal assets it may not be worth much to you to form a separate entity to limit liability because you do not have a lot of assets at risk.	

12	**Limiting Liability**	You may limit your liability by forming a limited partnership or a limited liability company under state or Tribal law. This is all background to explain what business entities are so we can discuss the federal tax filing requirements for any business entities you might own. **More on how the entity files taxes in a minute, but first an important warning.**	Forming an LLC will protect you from some business debts and business-related liabilities but will never protect you from your own bad acts or negligence. Once you have formed an entity under state or Tribal law you have to decide how you want that entity to file taxes for federal tax purposes.	For more information on the legal aspects of limited and unlimited liability consult an attorney licensed in the state(s) where you own property or do business.	

13	**But wait!! USDA Farm Program Payment Limitations Discourage You From Limiting Liability**	USDA farm programs with payment limitations are: Commodity programs PLC, ARC, Conservation programs CRP, ECP, EFRP, CSP, EQIP, AMA, Disaster Assistance Programs LFP, NAP, TAP. If any of these programs are important to your farm/ranch revenue, be sure to consult an attorney who has specific knowledge of USDA program payment limitations and entities.	Note to instructors: Consider if this slide is applicable to the audience before continuing with a detailed discussion. USDA program payment limitations are per person actively engaged in farming if the people have unlimited liability (are farming as sole proprietors or general partners) but ***per entity*** if the people are farming as a trust, LLC, or corporation. Generally USDA program payment limitations are $50,000 for CRP and from $125,000 to $500,000 for other programs. If your program utilization is well below these limits forming an LLC should not change your USDA program payments. Still work through your particular situation BEFORE forming an LLC.	USDA program payment limitations are a specialized area of knowledge. Unless a CPA or attorney has specialized agricultural expertise they will likely not be aware that forming a trust (a common estate planning practice) or an LLC (a common business practice) may lead to a reduction in USDA program payments. If participation in USDA farm program payments is an important part of your farm/ranch revenue please consult a qualified CPA or attorney with expertise in farm programs before forming any entity including a trust or an LLC. USDA program payment rules are not coordinated with IRS rules and sometimes the rules point you in different directions. If you may be subject to USDA program payment limitations be sure to consult a qualified farm business advisor before changing how you file taxes.	Has anyone had experience with program payment limitations? Does anyone here participate in commodity programs? Conservation programs? Has anyone received USDA disaster payments?

14	**2.** **Federal Tax Reporting Requirements for business entities**	**Section break slide - title and a picture only.**			

15	**General Rule**	The general rule is: any business other than a sole proprietorship files its own tax returns.	A sole proprietorship is not legally distinct from the owner so there is no limited liability and the owner's tax return includes the business activity. All other entity types have something that makes them legally distinct from the owner so the general rule is that they file their own tax returns.		

16	**Special Rule for “Disregarded entity”**	A single-member LLC does not have to file its own tax return. An LLC with more than one owner may file a partnership tax return (rather than a more complicated corporate return).	For income tax purposes it was difficult to encourage people to limit liability by forming an LLC if that meant having to file a separate tax return for an individual. For LLCs with more than one owner it was confusing to determine if the LLC should file a partnership tax return or a corporate tax return. To simplify things the IRS invented “disregarded entities.” If you have an LLC you can elect to have the IRS ignore (disregard) the LLC. For federal tax purposes a single-member LLC can be ignored - the owner files Schedule F (or C). An LLC with more than one owner must file a partnership tax return (that is the ignore or “disregard” option) or it can elect to be taxed as an S-corporation. That’s the IRS version of “simplified.”	If you form an LLC you need to make a federal tax election in the first year you file taxes after you have formed the LLC. If you want to be taxed as an S-Corporation you have a short window - you need to make the S-Corporation election within two months and 15 days from the first day of the S-Corporation's accounting year (usually the calendar year but may be a fiscal year.) If you do not want to be taxed as an S-Corporation you may elect to have the LLC treated as a "disregarded entity" for tax purposes. This election is easy to make, you just file taxes as if you had not formed the LLC - either as a sole proprietor if there is only one owner, or as a partnership if there is more than one owner. More on S-corporations in a moment.	

17	**Disregarded entities and Qualified Marital Joint Ventures**	If the two owners are a legally married couple and they form an LLC, then the "disregarded entity" election cannot be used to continue filing as a "Qualified Marital Joint Venture" in order for both to pay into Social Security /Medicare, instead they have to file a partnership tax return.	If you form a single member LLC and are not electing S-corporation taxation you are electing to have the LLC treated as a "disregarded entity" for tax purposes. You still get legal liability protection for state law purposes, but for federal tax purposes it is like the LLC never happened, it is disregarded or ignored. The one exception is for married couples who were filing taxes as a Qualified Marital Joint Venture so both spouses can pay into SS/Medi. In that situation if they form an LLC and do not elect S-corporation taxation they must file taxes as a partnership. We will discuss other situations where the LLC will file a partnership tax return on the next slide.		

18	**When unmarried owners must file a partnership tax return**	*Example: My brother and I farm some fields together and each of us farm some fields on our own. We just file our own tax returns and split the income and expense on the fields we farm together. Is that ok?*	No. If you are in business together with anyone other than your legally married spouse you must file a separate tax return for that business. The default is you are a partnership (even if you do not know it you may be a partnership if you work together with the intent to share profits) so you would file a partnership tax return. The better option is to make an active decision about forming a partnership with a written partnership agreement (but consider unlimited liability, but access to maximum USDA program participation) or to form an LLC (with limited liability but with some restrictions on USDA program participation). Under either of those options you may elect partnership taxation. Under the LLC option you may also consider S-Corporation taxation.	Why is this important? If you have a taxable profit each year there might not be much difference in taxes owed if you file a partnership tax return if you each file a Schedule F reporting your share of income and expense. If you have losses, failure to file a partnership tax return may result in you paying the wrong amount of taxes - that is because there are detailed IRS rules limiting how partners can take partnership losses against other taxable income.	

19	**What is an S-Corporation and why would I elect to be taxed as one?**	An S-corporation is a creature of tax law. It is designed to give owners some of the benefits of corporate taxation while also incorporating many of the (simpler?) provisions of partnership taxation. One of the key benefits is owners put themselves on payroll and deduct salary and payroll taxes from earnings - this resulted in lower taxes for the owners than if they paid self-employment taxes on all of their earnings. QBID is a new, easier way to give S-corporation benefits to more people.	Prior to the 2017 Tax Act the S-corporation alleviated some of the burden of paying self employment taxes and income taxes. Generally for people who were consistently earning approximately $40,000 a year or more going on payroll and deducting payroll taxes as a business expense resulted in adequate payments to SS/Medi and minimized overall total federal taxes. That was before QBID was invented. Now that we have QBID it is more difficult to determine when electing S-Corporation taxation is beneficial. In general S-corporation taxation is no longer beneficial unless the owners consistently pay self-employment tax on approximately $150,000 a year ($300,000 a year for married couples).	If you are close to these amounts you should consult a CPA for assistance in determining if S-corporation taxation would benefit you. You also need to consider how federal S-corporation taxation might change your state income tax burden.	

20	**Special considerations for S-Corporations**	An S-corporation may be a good entity for the activities of farming, but because of some of the special tax rules related to S-Corporation taxation it is not considered a good entity for owning the land where a farm or ranch business operates. There are special rules for assets you take out of an S-Corporation when you end the S-Corporation's existence.	There are special rules for assets you take out of an S-Corporation when you end the S-Corporation's existence. If you are considering forming an S-Corporation be sure to consult a qualified EA or CPA and think about long term plans and goals as well as short term objectives. If an S-Corporation is no longer the best tax structure for you, consult a qualified CPA or EA for assistance with filing a final tax return for the entity.	C-Corporations are beyond the scope of this presentation, but they are rarely a good entity choice for small-scale agricultural operations or land holding.	

21	**Questions?** **Thank you!**				

22	How do I learn more about federal income taxes and my farm or ranch?	There are a total of five lessons in this series. For each lesson there is a short set of questions you can answer to help you decide if the training will be useful to you. You can access the questions and the trainings at: https://law.uark.edu/academics/llm-food-ag/llm-projects-agftap.php Additional project resources are available here: https://agftap.org/			

23	How do I learn more about federal income taxes and my farm or ranch?	• IRS Publication 225, The Farmers Tax Guide • RuralTax.org • IRS website and publications			

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