A Resurgence of the Capital Gain Exclusion Under Section 1202 (Qualified Small Business Stock)

UTCLE LLCs, LPs and Partnerships Thursday, July 13, 2023 Brandon Bloom, Holland & Knight

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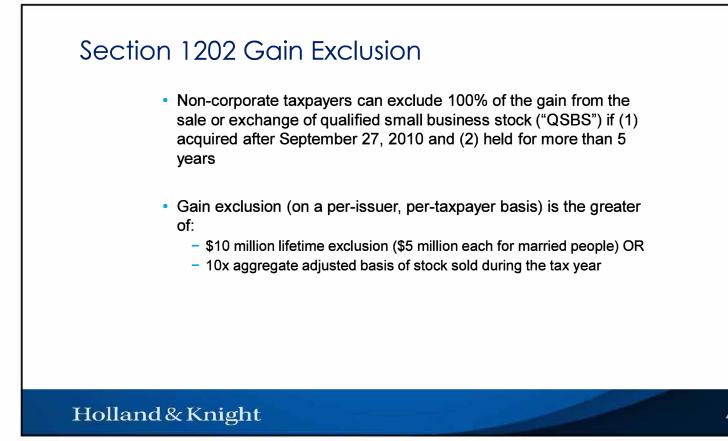
# Agenda

- I. Overview of Section 1202
- II. Considerations for Business Owners and Investors
- III. Use of Pass-Through Entities
- IV. Q&A and Discussion

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# Overview of Section 1202





# Active Business Requirements

- At least 80% of assets (by value) are used in the active conduct of a qualified trade or business
  - Not "qualified": most professional services, banking/investing, farming, hospitality, and oil and gas activites
  - Subsidiary's assets and activities are ratably attributed to Parent
  - Special rules for working capital and real estate investments
  - Includes start-up and R&D activities
- Must be an "eligible" corporation
  - Excludes DISCs, RICs, REITs, REMICs, and cooperatives
- Both must be met during "substantially all" of taxpayer's holding period

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