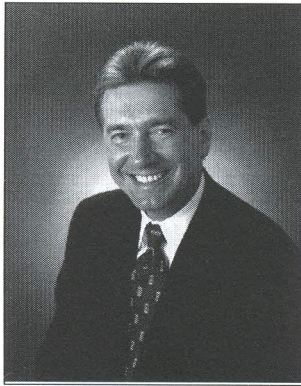
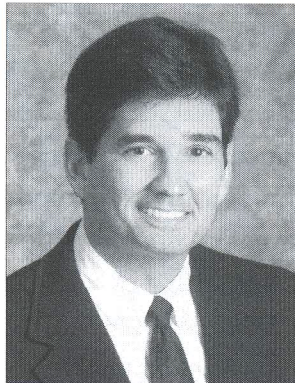


Current Developments In The Sale Of Personal Goodwill



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How goodwill can go from being personal to corporate—and what it can mean for your professional clients.

FOR THOSE DENTISTS, VETERINARIANS, AND OTHER PROFESSIONALS (“Professionals”) who practice through C-corporations, the sale of the corporation’s assets are double taxed: 35 percent at the corporate level and 15 percent at the individual level. Tax Reform Act of 1986, Pub. L. 99-514, 1986-3 C.B. (vol. 1) 1. Since 1998, advisors, relying on the *Martin Ice Cream* and *Norwalk* cases, in which the taxpayers won and goodwill was deemed personal, have minimized this double tax by taking the position that the Professional’s goodwill is personal and not corporate. *Martin Ice Cream Co. v. Commissioner*, 110 T.C. 189 (1998); *Norwalk v. Commissioner*, 76 T.C.M. (CCH) 208 (1998). To the extent that the Professional’s goodwill is personal, it is arguably taxed on one level at the favorable capital gains rate, currently 15 percent. Thus, a double tax is avoided on the largest part of the sale, the personal goodwill.

However, in the recent case of *Howard v. U.S.*, 2010 WL 3061626 (E.D. Wash. July 30, 2010), where a dentist sold the assets of his corporation (the “Corporation”) and his goodwill, the court held that the goodwill was corporate and not personal. The ruling resulted in a double tax on the sale of the Corporation’s assets. What made the difference in the rulings by the courts? In *Martin Ice Cream*

