

Stock Sales vs. Asset Sales

The Internal Revenue Service loves to audit the sale of a business, because almost everything that benefits one party ultimately costs the other. Here is a side by side comparison of some common tax and legal issues surrounding a stock versus asset sale of a business.

Item	Stock Sale	Asset Sale
Seller's Tax Liability	Capital Gains Tax	Ordinary Income Tax (possible Alternative Minimum Tax)
Buyer's Tax Basis	Price of stock	Price of Assets
Seller's Treatment of Intangible Assets (Goodwill, patents, customer lists, workforce in place)	N/A	May be eligible for Capital Gains treatment if held personally outside the entity. Otherwise ordinary income.
Seller's Treatment of Tangible Assets	N/A	If sale price exceeds book value, ordinary income tax is due on "Overpayment."
Buyer's Treatment of Intangible Assets	N/A, part of basis	15 Year Depreciation
Buyer's Treatment of Tangible Assets	N/A, part of basis	New depreciation schedules begin at the time of sale with the amount paid
Seller's Legal Liability	Technically ends with the transfer of the entity	Remains with owner of the entity at time of incident. No transfer of liability.
Buyer's Legal Liability	Assumes responsibility for past actions of the entity	Acquiring entity starts with a clean slate

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