SALE of BUSINESS ASSETS

701 IAC 40.38 **701 IAC 54.2** **IRC**

Was the sale of assets at least 90% of all of the tangible personal property or service of the business? 40.38 (3) 54.2 (1)

- No → May not qualify for a capital gain deduction
- Yes ↓

Was the sale to a lineal descendent? 40.38 (3) paragraph e

- Yes → Is the federal holding period under IRC § 1223 10 years or more immediately prior to the sale?
- No ↓

Did you materially participate under IRC § 469 (h) 10 years immediately prior to the sale?

- No → May not qualify for a capital gain deduction
- Yes ↓

Is the federal holding period under IRC § 1223 10 years or more immediately prior to the sale?

- No → May not qualify for a capital gain deduction
- Yes ↓

Is the capital gain a flow through from a partnership, S corporation, LLC, estate or trust?

- No → Was this an installment sale?
- Yes ↓

Do the flow through owners meet the holding period qualifications and material participation qualifications? 40.38 (3) paragraph f

- No → May not qualify for a capital gain deduction
- Yes ↓

Was this an installment sale?

- No → Is the capital gain from a C Corp?
- Yes ↓

Is this gain from principal paid to the seller one or more years after the year in which the sales transaction occurred?

- No → May not qualify for a capital gain deduction
- Yes ↓

Were the principal payments received in the current tax year?

- No → May not qualify for a capital gain deduction
- Yes ↓

Is the capital gain from a C Corp?

- No → May qualify for a capital gain deduction, but not greater than the qualifying gain.
- Yes ↓

Was the sale reported under IRC §331 or IRC § 338

- No → May not qualify for a capital gain deduction
- Yes ↓

May qualify for a capital gain deduction, but not greater than the qualifying gain.