

FICPA Gulf Coast Chapter Meeting Outline
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Medicare Surtax Planning for Real Estate Investors and Developers

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1. Medicare Surtax Overview
 - a. 3.8% Surtax
 - i. Generally
 - ii. Exemptions by taxpayer-type
 - iii. Two-pronged active trade or business exception
 - b. .9% Surtax
 - i. Generally
 - ii. SECA connection
2. Application to Real Estate Income
 - a. Dealers & Developers
 - b. Rents
 - c. Non-dealer/developer gains
3. Application to Common Business Structures
 - a. Direct Ownership
 - b. S Corporations
 - c. Partnerships
 - d. Other
4. Planning Opportunities
 - a. Potentially exempt business structures
 - b. Satisfying the independent trade or business test
 - i. Generally
 - ii. Leasing safe harbor
 - c. PAL grouping elections to avoid passive activity characterization
5. Example structures
 - a. Land bankers and others holding raw land for appreciation
 - b. Developers