THE VOS VOICE

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"BECAUSE ACCOUNTING MATTERS AND WE KNOW IT"

*VOS CPAs, PLLC 30 Wall Street, NY, NY 10005 * 80 Orville Drive, Bohemia, NY 11716 * 41 Park of Commerce Way, Savannah, GA 31405*

www.voscpas.com

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3 TRADITIONAL MID-YEAR TAX PLANNING STRATEGIES FOR INDIVIDUALS THAT HOLD UP POST-TCJA

With its many changes to individual tax rates, brackets and breaks, the Tax Cuts and Jobs Act (TCJA) means taxpayers need to revisit their tax planning strategies. Certain strategies that were once tried-and-true will no longer save or defer tax. But there are some that will hold up for many taxpayers. And they'll be more effective if you begin implementing them this summer, rather than waiting until year end. Take a look at these three ideas, and contact us to discuss what midyear strategies make sense for you.

1. Look at your bracket

Under the TCJA, the top income tax rate is now 37% (down from 39.6%) for taxpayers with taxable income over $500,000 (single and head-of-household filers) or $600,000 (married couples filing jointly). These thresholds are higher than for the top rate in 2017 ($418,400, $444,550 and $470,700, respectively). Therefore, the top rate might be less of a concern.

However, singles and heads of households in the middle and upper brackets could be pushed into a higher tax bracket much more quickly this year. For example, for 2017 the threshold for the 33% tax bracket was $191,650 for singles and $212,500 for heads of households. For 2018, the rate for this bracket has been reduced slightly to 32% — but the threshold for the bracket is now only $157,500 for both singles and heads of households.

So a lot more of these filers could find themselves in this bracket. (Fortunately for joint filers, their threshold for this bracket has increased from $233,350 to $315,000.)

If you expect this year's income to be near the threshold for a higher bracket, consider strategies for reducing your taxable income and staying out of the next bracket. For example, you could take steps to accelerate deductible expenses.

But carefully consider the changes the TCJA has made to deductions. For example, you might no longer benefit from itemizing because of the nearly doubled standard deduction and the reduction or elimination of certain itemized deductions. For 2018, the standard deduction is $12,000 for singles, $18,000 for heads of households and $24,000 for joint filers.

2. Incur medical expenses

One itemized deduction the TCJA has retained and — temporarily — enhanced is the medical expense deduction. If you expect to benefit from itemizing on your 2018 return, take a look at whether you can accelerate deductible medical expenses into this year.

You can deduct only expenses that exceed a floor based on your adjusted gross income (AGI). Under the TCJA, the floor has dropped from 10% of AGI to 7.5%. But it's scheduled to return to 10% for 2019 and beyond.

Deductible expenses may include:

- Health insurance premiums
- Long-term care insurance premiums
- Medical and dental services and prescription drugs
- Mileage driven for health care purposes.

You may be able to control the timing of some of these expenses so you can bunch them into 2018 and exceed the floor while it's only 7.5%.

3. Review your investments

The TCJA didn't make changes to the long-term capital gains rate, so the top rate remains at 20%. However, that rate now kicks in before the top ordinary-income tax rate. For 2018, the 20% rate applies to taxpayers with taxable income exceeding $425,800 (singles), $452,400 (heads of households), or $479,000 (joint filers).

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If you've realized, or expect to realize, significant capital gains, consider selling some depreciated investments to generate losses you can use to offset those gains. It may be possible to repurchase those investments, so long as you wait at least 31 days to avoid the "wash sale" rule.

You also may need to plan for the 3.8% net investment income tax (NIIT). It can affect taxpayers with modified AGI (MAGI) over $200,000 for singles and heads of households, $250,000 for joint filers. You may be able to lower your tax liability by reducing your MAGI, reducing net investment income or both.

"Growth demands a temporary surrender of security."

-- Gail Sheehy

CHOOSING THE BEST BUSINESS ENTITY STRUCTURE POST - TCJA

For tax years beginning in 2018 and beyond, the Tax Cuts and Jobs Act (TCJA) created a flat 21% federal income tax rate for C corporations. Under prior law, C corporations were taxed at rates as high as 35%. The TCJA also reduced individual income tax rates, which apply to sole proprietorships and pass-through entities, including partnerships, S corporations, and, typically, limited liability companies (LLCs). The top rate, however, dropped only slightly, from 39.6% to 37%.

On the surface, that may make choosing C corporation structure seem like a no-brainer, but there are many other considerations involved.

Conventional Wisdom

Under prior tax law, conventional wisdom was that most small businesses should be set up as sole proprietorships or pass-through entities to avoid the double taxation of C corporations: A C corporation pays entity-level income tax and then shareholders pay tax on dividends — and on capital gains when they sell the stock. For pass-through entities, there's no federal income tax at the entity level.

Although C corporations are still potentially subject to double taxation under the TCJA, their new 21% tax rate helps make up for it. This issue is further complicated, however, by another provision of the TCJA that allows non-corporate owners of pass-through entities to take a deduction equal to as much as 20% of qualified business income (QBI), subject to various limits. However, unless Congress extends it, the break is available only for tax years beginning in 2018 through 2025.

There's no one-size-fits-all answer when deciding how to structure a business. The best choice depends on your business's unique situation and your situation as an owner.

3 Common Scenarios

Here are three common scenarios and the entity-choice implications:

1. Business generates tax losses. For a business that consistently generates losses, there's no tax advantage to operating as a C corporation. Losses from C corporations can't be deducted by their owners. A pass-through entity will generally make more sense because losses pass through to the owners' personal tax returns.

2. Business distributes all profits to owners. For a profitable business that pays out all income to the owners, operating as a pass-through entity generally will be better if significant QBI deductions are available. If not, it's probably a toss-up in terms of tax liability.

3. Business retains all profits to finance growth. For a business that's profitable but holds on to its profits to fund future growth strategies, operating as a C corporation generally will be advantageous if the corporation is a qualified small business (QSB). Why? A 100% gain exclusion may be available for QSB stock sale gains. If QSB status is unavailable, operating as a C corporation is still probably preferred — unless significant QBI deductions would be available at the owner level.

Many Considerations

These are only some of the issues to consider when making the C-corporation vs. pass-through entity choice. We can help you evaluate your options.

Consider These Financial Reporting Issues Before Going Private

Issuing stock on the public markets isn't right for every business. Some public companies decide to delist — or "go private" — often due to the high costs of complying with the requirements of the Securities and Exchange Commission (SEC). But going private can be nearly as complex as going public, so it's important to dot your i's and cross your t's.

SEC Requirements

The SEC scrutinizes going-private transactions to ensure that unaffiliated shareholders are treated fairly. A company that's going private — together with its controlling shareholders and other affiliates — must, among other requirements, file detailed disclosures pursuant to SEC Rule 13e-3.

The SEC allows a public company to deregister its equity securities when they're held by fewer than 300 shareholders of record, or fewer than 500 shareholders of record if the company doesn't have significant assets. Depending on the facts and circumstances, a company may no longer be required to file periodic reports with the SEC once the number of shareholders of record drops below the above thresholds.

Detailed Disclosures

To comply with SEC Rule 13e-3 and Schedule 13E-3, companies executing a going-private transaction must disclose:

- The purposes of the transaction, including any alternatives considered and the reasons they were rejected
- The fairness of the transaction, both substantive (price) and procedural, and
- Any reports, opinions and appraisals "materially related" to the transaction.

The SEC's rules are intended to protect shareholders, and some states even have takeover statutes to provide shareholders with dissenters' rights. Such a transition results in a limited trading market to be able to sell the stock.

Failure to act with the utmost fairness and transparency can bring harsh consequences. SEC scrutiny can lead to costly damages awards and penalties if your company is guilty of treating minority shareholders unfairly or making misleading disclosures.

Handle with Care

Companies that pursue going-private transactions should exercise extreme caution. To withstand SEC scrutiny and avoid lawsuits, it's critical to structure these transactions in a manner that ensures transparency, procedural fairness and a fair price.

In addition to helping you comply with the SEC rules, we can evaluate whether going private can help your company reduce its compliance costs or allow it to focus on long-term goals rather than satisfying Wall Street's demand for short-term profits.

"Growth is never by mere chance; it is the result of forces working together."

-- James Cash Penney

How to Avoid Getting Hit with Payroll Tax Penalties

For small businesses, managing payroll can be one of the most arduous tasks. Adding to the burden earlier this year was adjusting income tax withholding based on the new tables issued by the IRS. (Those tables account for changes under the Tax Cuts and Jobs Act.) However, it's crucial not only to withhold the appropriate taxes — including both income tax and employment taxes — but also to remit them on time to the federal government.

If you don't, you, personally, could face harsh penalties. This is true even if your business is an entity that normally shields owners from personal liability, such as a corporation or limited liability company.

The 100% penalty

Employers must withhold federal income and employment taxes (such as Social Security) as well as applicable state and local taxes on wages paid to their employees. The federal

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taxes must then be remitted to the federal government according to a deposit schedule.

If a business makes payments late, there are escalating penalties. And if it fails to make them, the Trust Fund Recovery Penalty could apply. Under this penalty, also known as the 100% penalty, the IRS can assess the entire unpaid amount against a "responsible person."

The corporate veil won't shield corporate owners in this instance. The liability protections that owners of corporations — and limited liability companies — typically have don't apply to payroll tax debts.

When the IRS assesses the 100% penalty, it can file a lien or take levy or seizure action against personal assets of a responsible person.

"Responsible person," defined

The penalty can be assessed against a shareholder, owner, director, officer or employee. In some cases, it can be assessed against a third party. The IRS can also go after more than one person. To be liable, an individual or party must:

1. Be responsible for collecting, accounting for and remitting withheld federal taxes, and

2. Willfully fail to remit those taxes. That means intentionally, deliberately, voluntarily and knowingly disregarding the requirements of the law.

Prevention is the best medicine

When it comes to the 100% penalty, prevention is the best medicine. So make sure that federal taxes are being properly withheld from employees' paychecks and are being timely remitted to the federal government. (It's a good idea to also check state and local requirements and potential penalties.)

If you aren't already using a payroll service, consider hiring one. A good payroll service provider relieves you of the burden of withholding the proper amounts, taking care of the tax payments and handling recordkeeping. Contact us for more information.

~ *I R S Corner*

Internal Revenue Service
United States Department of the Treasury

HOW THE IRS CONTACTS TAXPAYERS

IRS Tax Tip 2018-111

Everyone should know how the IRS contacts taxpayers. This will help people avoid becoming a victim of scammers who pretend to be from the IRS with a goal of stealing personal information.

Here are some facts about how the IRS communicates with taxpayers:

- The IRS doesn't normally initiate contact with taxpayers by email.
- The agency does not send text messages or contact people through social media.
- When the IRS needs to contact a taxpayer, the first contact is normally by letter delivered by the U.S. Postal Service. Fraudsters will send fake documents through the mail, and in some cases will claim they already notified a taxpayer by U.S. mail.
- Depending on the situation, IRS employees may first call or visit with a taxpayer. In some instances, the IRS sends a letter or written notice to a taxpayer in advance, but not always.
- IRS revenue agents or tax compliance officers may call a taxpayer or tax professional after mailing a notice to confirm an appointment or to discuss items for a scheduled audit.
- Private debt collectors can call taxpayers for the collection of certain outstanding inactive tax liabilities, but only after the taxpayer and their representative have received written notice.
- IRS revenue officers and agents routinely make unannounced visits to a taxpayer's home or place of business to discuss taxes owed, delinquent tax returns or a business falling behind on payroll tax deposits. IRS revenue officers will request payment of taxes owed by the taxpayer. However, taxpayers should remember that payment will never be requested to a source other than the U.S. Treasury.
- When visited by someone from the IRS, the taxpayers should always ask for credentials. IRS representatives can always provide two forms of official credentials: a pocket commission and a Personal Identity Verification Credential.