YEAR-END PLANNING ACTIONS: BUSINESSES

Here is a list of year-end tax planning action items based on current tax laws. We are in a unique position with the potential change in the tax laws being addressed in Congress, but without our magic 8 ball forecasting the future, we will provide the known.

CAPITAL EXPENDITURES

- Businesses should consider making expenditures that qualify for the liberalized business property expensing option. For tax years beginning in 2021, the expensing limit is $1,050,000, and the investment ceiling limit is $2,620,000. Expensing is generally available for most depreciable property (other than buildings) and off-the-shelf computer software. It is also available for interior improvements to a building (but not for its enlargement), elevators or escalators, or the internal structural framework), for roofs, and for HVAC, fire protection, alarm, and security systems.

- Businesses also can claim a 100% bonus first year depreciation deduction for machinery and equipment bought used (with some exceptions) or new if purchased and placed in service this year, and for qualified improvement property, described above as related to the expensing deduction. The 100% write-off is permitted without any proration based on the length of time that an asset is in service during the tax year. As a result, the 100% bonus first-year write-off is available even if qualifying assets are in service for only a few days in 2021.

- The generous dollar ceilings mean that many small and medium-sized businesses that make timely purchases will be able to currently deduct most if not all their outlays for machinery and equipment. In addition, you do not prorate the expensing deduction for the time that the asset is in service during the year. So, expensing eligible items acquired and placed in service in the last days of 2021, rather than at the beginning of 2022, can result in a full expensing deduction for 2021.

EMPLOYEE RRETENTION TAX CREDIT

- Review if you business qualifies for the employee retention credit. For the first three quarters of 2021, the Employee Retention Credit (ERC) is generally available to small businesses that continued to pay employees during a quarter in which the business experienced a significant decline in gross receipts (greater than a 20% decrease when compared to the same quarter in 2019 or if the immediately prior quarter had a significant decline in gross receipts) or during a time when subject to a complete or partial suspension of operations due to a government order related to COVID. The credit can be significant, up to 70% of qualifying wages per employee per quarter with a $7,000 per employee per quarter limit. The ERC is also available for 2020 wages paid, although the gross receipts decline threshold is higher and the credit percentage and maximum credit per employee are lower. The credit for 2021 and 2020 can be claimed now if not claimed on the original returns.

BUSINESS INCOME IDEAS

- Here is one rock-solid, time-tested, easy strategy to reduce your taxable income for this year: stop billing your customers, clients, and patients until after December 31, 2021. (We assume here that you or your corporation operates on a cash basis and calendar year.) Customers, clients, patients, and insurance companies generally don't pay until billed. Not billing customers and patients is a time-tested tax-planning strategy that business owners have used successfully for years.

- Maximize the deduction for pass-through business income. For tax years beginning in 2021, the deduction could be up to 20% of a pass-through entity owner's qualified business income, subject to restrictions that could apply when taxable income from all sources exceeds $329,800 if married filing joint and $164,900 for all others. For pass-through entity owners subject to the restrictions, it is extremely important to manage taxable income to maximize the deduction. The deduction can also be claimed for up to 20% of income from qualified REIT dividends and publicly traded partnerships. For purposes of this deduction, pass-through entities are defined as sole proprietorships, partnerships, S corporations, and LLCs that are treated as one of the former for tax purposes. The deduction is only available to individuals, trusts, and estates. Because of the various limitations and restrictions on the deduction, other tax planning moves can have a positive or negative effect on your allowable deduction.

BUSINESS EXPENSE IDEAS

- IRS regulations contain a safe-harbor rule that allows cash-basis taxpayers to prepay and deduct qualifying expenses up to 12 months in advance without challenge, adjustment, or change by the IRS. Under this safe harbor, your 2021 prepayments cannot go into 2023. This makes sense, because you can prepay only 12 months of qualifying expenses under the safe-harbor rule. For a cash-basis taxpayer, qualifying expenses include lease payments on business vehicles, rent payments on offices and machinery, and business and malpractice insurance premiums.

- If you are a **single-member LLC or sole proprietor filing Schedule C** for your business, the day you charge a purchase to your business or personal credit card is the day you deduct the expense. Therefore, as a Schedule C taxpayer, you should consider using your credit card for last-minute purchases of office supplies and other business necessities. If you operate your business as a corporation, and if the corporation has a credit card in the corporate name, the same rule applies: the date of charge is the date of deduction for the corporation. But if you operate your business as a corporation and you are the personal owner of the credit card, the corporation must reimburse you if you want the corporation to realize the tax deduction, and that happens on the date of reimbursement. Thus, submit your expense report and have your corporation make its reimbursements to you before midnight on December 31.

- Check your **Partnership and S Corporation** stock basis. If you own an interest in a partnership or S corporation, your ability to deduct any losses it passes through is limited to your basis. Although any unused loss can be carried forward indefinitely, the time value of money diminishes the benefit of these suspended deductions. If you expect the partnership or S-corporation to generate a loss this year and you lack sufficient basis to claim a full deduction, you should consider making a capital contribution or loan additional funds to the business before year-end.

- You can time year-end bonuses for maximum tax effect by both cash- and accrual-basis employers. Cash-basis employers deduct bonuses in the year paid, so they can time the payment for maximum tax effect. Accrual-basis employers deduct bonuses in the accrual year when all events related to them are established with reasonable certainty. However, the employer must pay the bonus within 2½ months after the end of the employer's tax year for the deduction to be allowed in the earlier accrual year. Accrual employers looking to defer deductions to a higher-taxed future year should consider changing their bonus plans before year-end to set the payment date later than the 2.5-month window or change the bonus plan's terms to make the bonus amount not determinable at year end.