Tax Law Prospective Changes for 2017
And
Other Current Transportation Matters
December 1, 2016

1. With the proposed rate reductions in corporate and individual rates (note pass thru entities) consider maximizing out bonus and section 179 depreciation this year, if you are in the maximum rate strata.

2. Next year, the concept of depreciation, may be a memory, due to a proposed shift in paying taxes on a net cash flow basis, and allowing full expensing of trucks and trailers in the year of purchase.

3. Next year, interest expense paid in financing the trucks and trailers, may not be a deductible expense.

4. Thus, the dynamics of full expensing of a purchase of a truck or trailer, along with the non-deductibility of the interest expense to finance the unit, will change the Lease finance markets. Further, add the requirement in future years to include the asset and related debt on the corporate balance sheet, makes for interesting times.

5. In 1986, due to tax law changes, it became more attractive to be an S corporation pass thru entity (28% tax rates) vs. the C corporation (34%) rates. The tax law allowed for a narrow window in time to elect and not pay a double tax under the deemed liquidation tax rules) Fast forward to 2016, some 30 years later. The tax proposals by Ryan and Trump would drop the C corporation rates from 34 to 15 or 20%, and the individual rates to 33%.

6. The status of the pass thru entities, S corporation, LLC, and Partnerships may or not be allowed the corporate rate of 15 or 20%, comments on the Ryan and Trump plan are unclear, how k-1 income would be taxed on the individual returns as to tax rates. Some experts say 33%, some say 15 or 20%, others say, the amount of k-1 income retained in the business will be taxed at 15 or 20%, and the amount distributed out to the shareholder or partner taxed at 33%.

7. Unlike 1986, my suggestion would be to not rush to conversion to a C corporation. Reason: Consider the use of cash basis accounting for tax reporting purposes. A C corporation does not provide for use of this method if revenues exceed 10 million in revenue over averaged predecessor years. Consider further the implication if you intend to sell your business at a future time, for a C Corp, double tax will possibly apply, once at the corporate level, then again at the individual level on distribution of the cash to liquidate the entity.

8. For tax planning at an individual tax level for 2016, thinking ahead to 2017 tax law proposals, you may want to review any sale of an asset for capital gain purposes, and review whether it be more advantageous to report the sale in 2017. For instance, the Trump plan would retain the 0 to 20% tax rate on dividends and capital gains, but levels of when taxable would move to the new levels of income brackets. The Ryan plan would raise the rate from 6 to 16.5%, based on new levels of income. Further, the Trump plan would eliminate the 3.8% Net investment income tax, which would include the non - business capital gains, interest and dividend income, and rental income and royalties. The elimination of the 3.8% tax catches my attention.

9. For tax planning at the individual level, and thinking through the pass thru entity k-1 items of income and expense, the Ryan and Trump plans would eliminate the alternative minimum tax calculation in 2017 and thereafter. Tax individual client's AMT items usually consist of state income tax expense and miscellaneous itemized deductions, (2106 expenses), for k-1 pass throughs the big item is depreciation expense, (different lives and methods for AMT, exception being recent years' bonus and section 179). If you have large state income tax obligations this year, you might review whether you can deduct on your 2016 and pay in, same being true of 2016 expenses. With bonus and section 179 depreciation in play for the 2016, I would advise clients to fully utilize and absorb the higher tax rate income this year, being 39.6%.

10. President elect Trump has made overtures of reversing or setting aside certain Obama executive orders and Government administrative regulations and rules enacted over the last eight years. Pay particular attention to the following topics. I have included sketches of these issues in your electronic packet to take home with you.
    a. Revoking IRS regulations vs revoking other government agency regulations, such as DOL.
    b. Obama health insurance care credits for individuals -IRS 2. Fair Labor Standard Act - Overtime Pay Salary Threshold of $47,476 - DOL 3. Fiduciary Rules for 401k Plans DOL

11. A hot DOL topic which is beginning to filter down from the large carriers to medium and small carriers deals with the subject of 29 CFR 785.22 on duty and off duty hours, the interaction of the minimum wage payments paid for on clock work, with the per diem payment allowance. I have enclosed some brief materials on the subject, including a legal firm web site which has posted trucking companies it has sued over this matter.

12. In conclusion, a new study is out on the state of Arkansas taxation, published by the Tax Foundation, and UCA's Arkansas center for Research in Economics. The study proposes lowering the state individual and corporate rates to be more competitive with neighboring states, a rate drop from 7 to 5% would be nice.

13. In further conclusion, less we forget the estate tax, it may be finally abolished, but it remains to be seen if clients with estates of 5.4 million or less will pass on a stepped up fair market basis to their heirs. The concept of carry over basis from the decedent to the surviving heir, will make for some interesting record keeping of basis, also see attached article on the horrid discontinuance of discounts by IRS regulation, which will hopefully be abolished as well.