A MONTHLY DIGEST OF KEY STATE, FEDERAL AND INTERNATIONAL TAX DEVELOPMENTS TO KEEP YOU ABREAST OF CURRENT AND PENDING TAX CONCERNS

TAX INSIGHTS

Highlighting tax developments of interest to today's companies on the move.

In this issue:

TRENDING IN TAX

Will 2017 be the year to extend your 2016 tax return?—An extension may provide time to react to possible tax reforms

Estate and gift tax planning in the aftermath of the 2016 election

What to know about property tax savings for manufacturers—Turning tax liabilities into cost-saving opportunities for manufacturers

What's new with ESOPs?—From transactions to valuations to regulations, changes continue

EVENTS AND WEBCASTS

Manufacturing issues and insights webcast series

What's next for BEPS: The multilateral instrument

BUSINESS GROWTH

State tax credits bring opportunity to growing businesses

SUCCESSION PLANNING

Selling your business in a post-election world—Do proposed tax reforms mean it's time to accelerate a business sale?

FROM THE BLOG

Multiple residences, one domicile: Where is income reported?

IRS issues key foreign currency tax regulations

Complexities abound for international assignees' foreign pensions

Unrelated business taxable income on refinanced property

TRENDING IN TAX

Will 2017 be the year to extend your 2016 tax return?

An extension may provide time to react to possible tax reforms

By: Nick Passini, Manager and Peter Pentland, Manager

Filing an extension is generally a straightforward process that can be quite beneficial when additional time is needed to ensure that tax filings are correct and complete. The extension provides additional time to review records and transactions to ensure proper reporting and optimal treatment of items. There are, however, many other reasons why a taxpayer may benefit from the filing of an extension.

Tax reform may turn temporary benefits into permanent savings

Taxpayers may be able to make certain accounting method changes that can result in the acceleration of deductions or the deferral of income. In the past, taxpayers may have paid less attention to these 'timing' issues, but as we have previously discussed (see our article, *On the horizon: Tax reform*), the prospect of tax reform brings the possibility of lower tax rates, which increases the benefits of accelerating deductions or deferring income. Accelerating a $1 of expense into a 35 percent or greater tax year and then repaying it back in a 15 to 20 percent tax

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year nets the taxpayer 15 to 20 percent or greater permanent difference. While many of the actions outlined in our prior discussion must be taken prior to year-end, other decisions may wait until the tax return is due, properly extended.

Many elections and method changes can be made on an extended tax return

An extended tax return provides additional time to make decisions related to accounting methods. Some decisions are common (such as the election to expense certain capital assets), while others may be part of a larger strategy (such as a decision to accelerate income recognition from an installment sale).

Similarly, an extended tax return provides additional time to request certain accounting method changes. While these changes may be more complex than most elections, taxpayers who may have overlooked or decided to forgo accounting method changes in the past may now wish to revisit these decisions if tax rates decline. Those taxpayers who have extended their tax returns will have additional time to determine the appropriateness of a specific accounting method and implement the accounting method changes.

An extension provides additional time to make certain payments that can be deducted in a prior year

In certain instances, taxpayers are able to deduct payments in a prior year despite making payment after the end of the tax year, as long as payment is made before the tax return is filed (by way of the recurring item exception for example). An extended tax return can thus extend the payment period.

An extension gives certain individuals additional time to make retirement plan contributions or recharacterizations

Certain individual taxpayers have until the extended due date of their tax returns to fund self-employed retirement plans. Others that have traditional IRAs and Roth IRAs may elect, up until the extended due date, to recharacterize contributions to a Roth IRA as contributions to a traditional IRA or vice versa to consider effects on deductible contributions and tax on future distributions.

New tax due dates in 2016 for partnerships

This filing season brings with it a shortened filing period for entities that are treated as partnerships (such as limited partnerships, limited liability companies and limited lability partnerships). While calendar year partnerships have historically had a due date of April 15, starting in 2017, this due date will be March 15. If additional time is needed to complete these returns, entities filing as partnerships may wish to file an extension.

New partnership audit rules

In addition to changes in due dates, this filing season marks the first time that entities can choose to elect into the newly created partnership audit regime *(see previous article)*. However, many of the regulations and guidance related to these rules are still to come. Filing an extension may allow taxpayers to make such an election after additional guidance related to these rules has been issued.

Estate and gift tax planning in the aftermath of the 2016 election

By: Charlie Ratner, Senior Director

Download white paper

In the aftermath of the 2016 election, the tax planning scene is murky at best. Much, if not all, of the existing wealth transfer tax structure (estate, gift and generation-skipping transfer taxes) could be repealed or recast in the coming year by the Trump administration and Congress. But, we don't know what will be repealed; nor do we know when any repeal would be effective. What's more, certain key income tax aspects of estate planning may be in play. It's difficult for individuals to determine whether estate planning objectives are better served by acting before year-end or by deferring any action until they can more clearly assess the long-term implications of a major gift or other estate planning transaction.

As we wait to learn more about tax reform in the coming weeks and months, revisiting your estate plan now will help ensure you have a well-positioned estate and gift plan no matter what the wealth transfer tax system looks like at this time next year.

This white paper, a companion piece to RSM's 2016 year-end tax and estate planning webcast held Nov. 16, 2016, addresses important estate and gift tax considerations when reviewing your current estate plan.

- The current wealth transfer tax system
- Estate and gift tax reform proposals
- Checking the foundation of the current estate plan
- Tax planning for year-end and beyond, including charitable planning and insurance planning

What to know about property tax savings for manufacturers

Turning tax liabilities into cost-saving opportunities for manufacturers

By: Rick Esser, Manager

Key takeaways:

- Manufacturers have unique personal property and real estate tax issues that are more complex than those in other industries.
- The valuation of both personal property and real estate can be determined by market forces and not just by cost and obsolescence.

- Preventing the overpayment of property taxes requires identifying overvaluations, missed exemptions, improper classifications and other common property tax compliance mistakes.

It's a rare case, but it does happen: A manufacturer misinterprets state property tax compliance requirements and reports all of its personal property every tax year. Some states, however, only require that the company report additions or deletions to its property. Until the discrepancy is identified, the manufacturer's property tax essentially doubles each year of the overreporting.

A more common mistake is the misclassification of assets. For example, a photocopier is estimated by the local assessor to have a 10-year life span and is classified as business equipment. Yet the machine may be more accurately recognized as a network printer, which many jurisdictions assess with a four-year life span. In most cases, assets that are on a company's books are mistakenly included in the tax base—even if the asset is 100 percent depreciated for GAAP or income tax purposes and is no longer in use.

As an industry, manufacturers have unique personal property and real estate tax issues that are more complex than those in other industries. While this can make valuation and compliance difficult, a comprehensive tax review can prevent tax overpayments, often representing as much as 20 percent of a company's tax expenditures.

Property tax for manufacturers—what's different?

Many states provide "favored status" for manufacturers, often requiring different or additional forms and regulations in order for the status to be applied. Due dates may not follow the normal timing of other industries on the property tax calendar. These additional filings or qualifications can lead to significant tax savings opportunities.

For retailers or restaurants, property tax issues are fairly straightforward: Whether you offer a Michelin-rated dining experience or fast-food menus, the equipment that can be taxed—tables, chairs, ovens and the like—all have similar uses and lifetimes. This makes valuation and tax requirements somewhat generic across these and other industries.

Manufacturers, however, have a distinct set of property tax issues. Generally, the equipment used by manufacturers is unique to their specific business, and thus needs to be evaluated on that basis.

To read more, go to: http://rsmus.com/what-we-do/industries/industrial-products/what-to-know-about-property-tax-savings-for-manufacturers.html

What's new with ESOPs?

From transactions to valuations to regulations, changes continue

By: Anne Bushman, Senior Manager

The employee stock ownership plan (ESOP) community has many unique technical issues to discuss each time professionals get together and the ESOP Association's Annual Conference was no exception. Following are some key developments of which ESOP companies and companies considering ESOPs should be aware:

What is new in ESOP transactions?

1. Taking a page from non-ESOP acquisitions, trustees use clawbacks more often in transactions to mitigate some of the risk that a valuation used an overly aggressive projection. The clawback is typically tied to seller debt so that the seller receives less money if, for example, company performance doesn't hit at least some percentage of projections.
2. It seems to be more important to carefully consider potential future change in control transactions during an initial ESOP transaction so that the fiduciary can appropriately advocate for participants and their beneficiaries if a transaction ends up making the original long-term planning horizon of the ESOP irrelevant. In reality, ESOPs may terminate much sooner than originally planned. Depending on the terms of the original ESOP transaction, the economic reality of a transaction that occurs before the ESOP has repaid its acquisition debt can drastically affect what the ESOP gets as compared to what it seems the ESOP purchased. If the company and the trustee take no other action, trustees should give thought at the time of the initial ESOP transaction to the plan terms governing the allocation of any shares released from collateral from the sale of the stock and repayment of the debt.
3. For clients considering doing a 1042 tax-deferred sale option, the market has changed. First, it is more difficult to leverage an investment portfolio than it has been in the past—sellers need to get a minimum of 25 percent of the sale price in cash. Second, there has been a substantial reduction in the availability of floating-rate, long-term bonds that sellers can use as qualified replacement securities. The good news is that another form of long-term bond, which includes a fixed interest rate for five years with quarterly adjustments thereafter, has become available. This may meet the needs of some sellers.

To read more, go to: http://rsmus.com/what-we-do/services/tax/lead-tax/whats-new-with-esops.html

EVENTS AND WEBCASTS

Manufacturing issues and insights webcast series

Join us for an informative, four-part webcast series that addresses your key challenges and opportunities within the manufacturing industry. From tax compliance to optimizing your finance function, risk management to accounting, you'll gain key insights that will improve your business going forward.

Register

Register for the **2016 – 2017** webcasts today. Topics and dates include:

- Audit and accounting update
- The finance function as a strategic business partner
- Tax opportunities and challenges for manufacturers
  Thursday, Jan. 19, 2017
- Leveraging ERM beyond compliance
  Wednesday, Apr. 26, 2017

Audit and accounting update
Tuesday, Oct. 25, 2016

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The finance function as a strategic business partner
Thursday, Nov. 17, 2016

Download webcast slides

What's next for BEPS: The multilateral instrument

By: Dan Berman, Principal and Andrew Seidler, Partner

The base erosion and profit shifting (BEPS) Action Plan continues to develop and evolve, requiring globally active companies to respond promptly to new developments. To facilitate rapid adoption of tax treaty measures established as part of the BEPS project (Action 15), the Organisation for Economic Co-operation and Development (OECD) announced the multilateral instrument (MLI), which will allow participating countries to incorporate into their domestic law Action 15 proposals without the need to renegotiate existing treaties with other countries individually.

With the MLI expected to be ready for signatures by participating countries early in 2017, companies need to consider how they will be affected by these new rules.

RSM International tax professionals will explain the multilateral instrument and how the United States may react during the next program in our BEPS webcast series.

Download webcast slides

BUSINESS GROWTH

State tax credits bring opportunity to growing businesses

By: Mark Blawas, Senior Manager and Rob Calafell, Partner

State tax credits and incentives are big business, often creating a mutually beneficial relationship between the providers and recipients of the incentives. These incentives can spur growth in traditionally underrepresented industries, such as enticing technology companies to relocate high-paying jobs and highly educated personnel, or establish data centers to increase a state's presence in the cloud computing era. Other incentives may be focused on manufacturing, providing incentives to build new or expanded facilities resulting in more active assembly lines. Some states have created incentive "zones" that provide benefits to businesses that locate to a designated area. Moreover, tax credits and incentives are not just statutory in nature—many can be uniquely negotiated for a particular business to encourage retention and investment.

Businesses looking to expand operations within their current state, whether through hiring or capital investment, or increase activity in other states should carefully consider how the benefits and advantages of state tax credits and incentives may impact their bottom line. Businesses must realize that the availability of incentives exist around every corner—sometimes all you have to do is ask.

The following 10 state tax credits have favorable attributes for growing businesses such as low barriers to entry, high return or easy implementation; and depending on the credit and location, may provide large refunds. Many of these credits are statutory and can be simply claimed on a tax return. Others are discretionary or discretionary in nature and require an application and potential negotiation prior to making the investment or adding jobs.

- **Georgia Jobs Tax Credit**—A potential tax credit of up to $20,000 per job is available for companies engaging in manufacturing, telecommunications, broadcasting, warehousing, R&D, processing or tourism, that creates jobs within Georgia. The minimum number of jobs and the amount of credit available per job varies by location, but can be as low as two new jobs.
- **Tennessee Jobs Tax Credit**—Companies may claim a tax credit of $4,500 per newly created job within the state of Tennessee. Depending on the location, as few as 10 new jobs are required for the tax credit. Qualifying companies must also increase the value of real and personal property or computer software owned or leased in Tennessee by $500,000. Eligible businesses must be engaged in manufacturing, warehousing, distribution, processing, R&D, computer services, call centers, headquarters facilities, back office and convention or trade shows.
- **Georgia Retraining Tax Credit**—For companies who are working to improve their workforce through training, a tax credit equal to 50 percent of the training costs up to

$500 per employee may be available for each approved training program. Eligible activities include training for new equipment, new technology, software platforms, total quality management, ISO 9000 and self-directed work teams. Eligible costs include instructor fees, employee wages, materials, supplies and equipment.

- **Indiana Jobs Tax Credit (EDGE)**—Focusing on improving the standard of living for Indiana residents, the Economic Development for a Growing Economy (EDGE) Tax Credit provides an incentive to businesses that support jobs creation and capital investment in the state. The refundable corporate income tax credit is calculated as a percentage of the expected increased tax withholdings generated from new jobs creation. The credit certification is phased in annually for up to 10 years based upon the employment ramp-up outlined by the business.
- **Wisconsin Business Development Tax Credit (BTC)**—Wisconsin encourages business retention through a tax credit program that supports job creation, capital investment and training for companies located in or seeking to relocate to the state. Those businesses may be eligible for the credit if the business's net employment in the state increases each year (subject to retention requirements) for which the business claims tax credits.
- **Louisiana Inventory Credit**—The inventory tax credit reimburses taxpayers for the annual local property taxes paid on the value of inventories. Effective July 1, 2015, the refund of inventory taxes for eligible taxpayers whose *ad valorem* taxes paid is $10,000 or more will be limited to 75 percent of any excess credit. The remaining 25 percent of the excess credit is carried forward against income and corporation franchise tax for up to five years. Smaller taxpayers will continue to receive full refunds of inventory tax paid.
- **Illinois Replacement Tax Credit**—This credit is available for businesses in manufacturing, retail and wholesale, and coal or fluorite mining. It is equal to 0.5 percent of the qualified property's basis. An additional credit equal to 0.5 percent of the qualified property's basis is granted if the business' base employment in Illinois increased by 1 percent or more over the past year.
- **New York Excelsior Jobs Credit**—Companies creating new jobs in New York state can claim a tax credit of up to 6.85 percent of the wages of newly created jobs. For software development, R&D, agriculture and music production companies, only five new jobs are required. Manufacturing companies are required to create 10 new jobs. The credit is refundable as cash if the company does not have a tax liability.
- **Connecticut Fixed Capital Investment Credit**—Taxpayers can claim a state tax credit equal to 5 percent of the costs of most fixed assets that are placed in service within Connecticut. Eligibility for the credit is open to any industry.
- **Idaho Investment Tax Credit**—Businesses can claim a tax credit of 3 percent of the costs of most capital investments that are placed in service. The credit is not limited to specific industries.

SUCCESSION PLANNING

Selling your business in a post-election world

Do proposed tax reforms mean it's time to accelerate a business sale?

By: Chris Bradford, Partner and David Sterling, Partner

In a climate of uncertainty due to the early days of an evolving Trump administration and burgeoning policy direction, some privately held business owners thinking of selling their companies may be feeling some anxiety.

Should you accelerate your sale now to take advantage of known tax considerations before the end of the year, or is a more deliberate approach the better play, pushing a sale to 2017 or beyond? While the urge may be for some to hurry up planning efforts for fear of the unknown, it's likely better for many to take more deliberate sales strategy steps, and here's why.

When you hurry, you lose control

Essential to an optimal business sale is the ability to control the readiness process. This starts with the business owner answering basic succession planning questions around business value, retirement and wealth planning needs, leadership requirements, family dynamics and more.

Addressing these questions and planning takes time, however, and if an owner is in an accelerated mode to sell the company, key business considerations may be missed and sale outcomes may fall short. So, despite the worries of unknowns about tax reform now, smart business owners shouldn't be sprinting to the finish line. Rather, take a breath. A slow and steady pace will win this race. But, a restrained pace doesn't mean efforts shouldn't be underway now to plan for your business sale later. There's much to do to achieve what you want out of your successful sale.

To read more, go to: http://rsmus.com/what-we-do/services/tax/private-client/selling-your-business-in-a-post-election-world.html

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Tax Insights

January 2017

Printed in the U.S.A.

NL-NT-TAX-ALL-0516

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