TAX PLANNING GUIDE FOR BUSINESSES

2013

This 2013 Tax Planning Guide highlights important federal tax law provisions that could affect your personal tax planning. It also presents a variety of potential strategies that could help reduce your tax burden. Since the general strategies discussed in this guide do not consider the details of your specific tax situation, you'll want to obtain professional advice before acting on any of the planning ideas presented.

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Evaluate Business Entity Choices in View of Higher Rates

The higher 39.6% individual tax rate that takes effect in 2013 is a potential planning concern for business owners who report income from their businesses on their personal returns. As a sole proprietor, a partner, a limited liability company (LLC) member, or a shareholder in a corporation that has an election in place to be treated as a flow-through entity (an "S corporation"), you'll pay tax on pass-through business income at the individual rates. The regular corporate tax rates are shown in the accompanying table.

The income of a regular C corporation is taxed first to the corporation (at the rates shown in the table) and then again to the shareholders when it is distributed in the form of dividends. But closely held C corporations can use certain strategies to help avoid this double taxation.

CORPORATE TAX RATES:

TAXABLE INCOME	RATE
Up to $50,000	15%
$50,001 – $75,000	25%
$75,001 – $100,000	34%
$100,001 – $335,000	39%
$335,001 – $10 million	34%
Over $10 million – $15 million	35%
Over $15 million – $18,333,333	38%
Over $18,333,333	35%
ALTERNATIVE MINIMUM TAX*	**20%**

* *The corporate AMT exemption of $40,000 is phased out with alternative minimum taxable income between $150,000 and $310,000.*

- Paying corporate owners who work in the business high (but reasonable) salaries and bonuses serves to convert some corporate earnings into deductible expenses rather than dividends. One drawback: The owners and the corporation must pay Social Security tax on their earnings (up to the Social Security wage base) as well as Medicare tax.

- The new additional 0.9% Medicare tax on earned income (see ADDITIONAL MEDICARE TAX ON EARNINGS) is not payable by employers, but it will increase your personal Medicare tax burden if your earnings are high enough to be impacted.

- Leasing business property or equipment to your corporation is another way to draw earnings out of the company without a double tax. Your corporation can deduct the rent expense; you declare the rent as income. To protect the deduction, be sure to execute a formal written lease and have documentation establishing that the rent charged is reasonable.

- As a shareholder/employee, you can receive several different nontaxable fringe benefits. For example, consider having your firm pay for your life insurance coverage (up to $50,000 on a group term policy), medical benefits, and disability insurance. The costs will be deductible if all requirements are met.

Accumulated Earnings Tax

Regular C corporations that retain an excessive amount of earnings and profits in the business instead of paying dividends to shareholders may have to pay a penalty tax. Your corporation should be ready to prove that any accumulations exceeding $250,000 ($150,000 for personal service corporations) are needed to meet reasonable business requirements. Document such needs in the corporate minutes.

Corporate AMT

Larger corporations also have to plan for possible alternative minimum taxes. While S corporations pass AMT items through to individual shareholders, regular C corporations pay any AMT that applies at the corporate level.

Certain small corporations are *exempt* from the AMT. The exemption applies if average annual gross receipts for all three-year periods beginning after 1993 and ending before the current year are $7.5 million or less ($5 million or less for the corporation's first three-year period).

S Corporate Shareholders

While double taxation generally isn't an issue if your company has an S election in place, you still need to be paid reasonable compensation for the services you provide to the company. The IRS is on guard against S corporation shareholders who take distributions from their companies but pay themselves little or no salary in an attempt to avoid employment taxes.

Corporate losses allocated to you by your S corporation are deductible on your personal return — but only to the extent you have sufficient "adjusted basis" in your stock and any loans you have made to the corporation. If you expect your S corporation to show a loss, check to make sure you will be able to deduct it. If not, you might consider advancing money to the company to increase your basis.