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OCTOBER 2021

WAIT AND SEE
(PROPOSED TAX LAW CHANGES)

One bit of folk wisdom (the "5P Rule") holds "Prior planning prevents poor performance," and it is frequently true. Unfortunately, informed planning for the best income and estate tax results for 2021 and for 2022 is as yet impossible, as good planning depends on a thorough understanding of the applicable rules. After many political utterances and extensive coverage by the popular press and in the literature of tax commentators, the applicable tax law for 2021 and 2022 is unknowable. What then is a reasonable plan for a prudent taxpayer for the balance of 2021 and early 2022?

What seems best to us is to defer decisions with tax significance wherever possible for as long as possible. Because almost all of the discussed changes are tax increases on middle income and higher income taxpayers (who comprise almost all tax planning taxpayers), the usual plan of deferring income and accelerating expenses may not be best for the remainder of 2021. Personal financial planning, estate tax planning, and other personal decisions, which are not dominated by tax issues, for example, formation of family investment entities, gifts, acquisitions of equipment with expensing elections, might be completed during the remainder of 2021. Major long-term, tax-significant decisions, for example, the choice between pass-through taxation for corporations (subchapter S status) and corporate taxation (subchapter C status), require significant study based on actual law or very likely expected law and are probably best deferred until the changes are better known.

For now, the only reasonable, at least to us, expectation is that both income and estate tax will increase and most likely be generally effective for 2022 and the details will only be furnished very shortly before or after enacted. Meanwhile, it seems reasonable, at least to us, to delay decisions as long as possible and then plan the balance of 2021 based on significant changes in the law not being retroactive.

THE IMPORTANCE OF DIGITAL SECURITY

We guess that most of us have long ago given in to (and enjoy the convenience of) online banking and shopping. Accompanying that convenience, however, is the ever-increasing risk of criminals attempting to access your online accounts and stealing from you and from those with whom you conduct transactions. For that reason, the importance of securing your online accounts (especially banking and investment accounts) and other

(*Continued on reverse*)

information with strong passwords and multi-factor identification (i.e., using a password together with a code sent during login to your smartphone to verify your identity), when available, cannot be overemphasized. The dilemma is that good security requires that passwords be complex and not used for multiple account logins. That means you should be using a different complex, lengthy password for each website log-in. Unfortunately, remembering such passwords is virtually impossible.

Many conclude the best solution to be the use of an online password manager that will securely store all of your passwords. The password manager is accessed by your master password, which will be the only one you will need to remember. But, your master password better be a good one since it will open the vault containing all of your other passwords. Your master password should be at least 20 characters but also should be one that you will be able to readily recall, such as one based on a phrase like "From here to eternity." You might then alter the phrase slightly (e.g., eliminate or substitute a special character for spaces, use numbers for certain letters, etc.). But make sure your alterations are easy enough for you to remember (e.g., "Fr0m!here!2!eternity.").

There are many password managers available such as Dashlane, LastPass, Keeper, and Bitwarden for both mobile devices and desktop computers. Some of these password managers have both free and paid versions, with the paid versions offering more features. We encourage everyone to review the password security on their financial accounts, make any appropriate changes, and consider an online password manager.

NOTIFYING IRS OF AN ADDRESS CHANGE

The Internal Revenue Service mails various items (e.g., refund checks, notices of proposed adjustments, examination appointment letters, etc.) to the taxpayer's "last known address." Generally, a taxpayer's last known address is the address shown on the most recently filed tax return. If the taxpayer has moved without informing the IRS of the address change, any IRS notice sent to the former address nevertheless will be considered legally effective even if the taxpayer never receives it. Such missed communications can have unwelcomed consequences for the taxpayer because of missed time-sensitive responses.

When a taxpayer changes address after recently filing a tax return that includes the old address, Form 8822 (for individual income, gift, and estate tax returns) may be filed notifying the IRS of the change. For business address changes, Form 8822-B may be filed. Married taxpayers who file a joint return should both sign Form 8822. Taxpayers who previously filed a joint return and now have separate addresses should each separately file a Form 8822 to notify the IRS.

According to the IRS website, after receiving a Form 8822 or Form 8822-B, the IRS will send a Notice CP-148A or CP-148B, respectively, confirming receipt of the address change. Normally, these notices would be sent by the IRS within four to six weeks of receiving Form 8822. However, given the disruptions during the last nineteen months, one should expect a longer wait for acknowledgment.

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Tax & Business Alert

OCTOBER 2021

BEING PREPARED FOR AN IRS AUDIT

The IRS recently announced it intends to hire thousands of new employees as part of a tax-enforcement push. This could mean an uptick in audits sometime soon, likely focused on wealthier individuals and business owners. (Some tax returns are chosen randomly as well.)

The best way to survive an IRS audit is to prepare for one in advance. On an ongoing basis, you should systematically maintain documentation — invoices, bills, canceled checks, receipts and other proof — for the items that you report on your tax return. Maintain and back up these records safely. With that said, it also helps to know what might catch the tax agency's attention.

AUDIT HOT SPOTS

Certain types of tax-return entries are known to the IRS to involve inaccuracies, so they may lead to an audit. One example is significant inconsistencies between tax returns filed in the past and your most current tax return. If you miscalculate deductions or try to claim unusually high ones, your return could be flagged. And if you're a business owner, gross profit margin or expenses markedly different from those of similar companies could subject you to an audit.

Certain types of deductions, such as auto and travel expense write-offs, may be questioned by the IRS because there are strict recordkeeping requirements involved. In addition, an owner-employee salary that's inordinately higher or lower than those of similar and similarly located companies can catch the IRS's eye — especially if the business is a corporation.

CONTACT METHODS

The IRS normally has three years within which to conduct an audit, and often an audit doesn't begin until a year or more after you file a return. If you're selected for an audit, you'll be notified by letter. Generally, the IRS doesn't make initial contact by phone. If there's no response to the letter, the agency may follow up with a call. Ignore unsolicited email messages about an audit. The IRS doesn't contact people in this manner; these are scams.

Many audits simply request that you mail in documentation to support certain deductions that you've claimed. Others may ask you to provide receipts and other documents to a local IRS office. Only the harshest version, the field audit, requires you to meet personally with one or more IRS auditors.

Keep in mind that the tax agency won't demand an immediate response to a mailed notice. You'll be informed of the discrepancies in question and given time to prepare. You'll need to collect and organize all relevant income and expense records. If any records are missing, you'll have to reconstruct the information as accurately as possible based on other documentation.

HOW WE CAN HELP

If the IRS chooses you for an audit, our firm can help you understand what the IRS is disputing (it's not always clear) and then gather the documents and information needed. We can also help you respond to the auditor's inquiries in the most expedient and effective manner.

Above all, don't panic! Many audits are routine. By taking a meticulous, proactive approach to how you track, document and file your tax-related information, whether for an individual or business return, you'll make an audit easier and even decrease the chances that one will happen in the first place. ■

THE DEDUCTIBILITY OF MEDICAL EXPENSES

Individual taxpayers may be able to claim medical expense deductions on their tax returns. However, the rules can be challenging, and it can be difficult to qualify. Here are five points to keep in mind:

1. You must itemize to claim the deduction and have quite a few expenses. For 2021, the medical expense deduction can only be claimed to the extent your unreimbursed costs exceed 7.5% of your adjusted gross income. If your total itemized deductions for 2021 will exceed your standard deduction, moving or "bunching" nonurgent medical procedures and other controllable expenses into this year may allow you to exceed the 7.5% floor and benefit from the deduction.

2. Health insurance premiums may help. This can total thousands of dollars a year. Even if your employer provides health coverage, you can deduct the portion of the premiums that you pay. Long-term care insurance premiums are also included as medical expenses, subject to limits based on age.

3. Transportation counts. The cost of getting to and from medical treatments counts as a medical expense. This includes taxi fares, public transportation or using your own car. Car costs can be calculated at 16 cents a mile for miles driven in 2021, plus tolls and parking. Alternatively, you can deduct certain actual costs (such as for gas and oil) that directly relate to your medical transportation.

4. Controllable costs are key. These include the costs of glasses, hearing aids, dental work, mental health counseling and other ongoing expenses in connection with medical needs. Purely cosmetic expenses generally don't qualify. Prescription drugs (including insulin) qualify, but over-the-counter aspirin and vitamins don't. Neither do amounts paid for treatments that are illegal under federal law (such as medical marijuana), even if state law permits them. The services of therapists and nurses can qualify if they relate to medical conditions and aren't for general health.

5. Don't overlook smoking-cessation and weight-loss programs. Amounts paid for participating in smoking-cessation programs and for prescribed drugs designed to alleviate nicotine withdrawal are deductible. However, nonprescription nicotine gum and patches aren't. A weight-loss program is deductible if undertaken as treatment for a disease diagnosed by a physician. Deductible expenses include fees paid to join a program and attend periodic meetings. The cost of diet food isn't deductible. ■

DON'T GET BLOWN AWAY BY A WINDFALL

Receiving a sudden and sizable influx of cash may seem like a dream come true. It can be, but many people get blown away by a windfall and end up in worse financial shape.

RISKY CONDITIONS

Perhaps the most obvious example is you may be tempted to immediately buy an expensive new car or home. Or fraudulent charities may come knocking. You can avoid these potential pitfalls by stashing your windfall in a bank or money market account as soon as you receive it. Let it sit there until you identify a few specific, reasonable goals — such as funding your retirement or a child or grandchild's education. Waiting at least a month before you touch the money can help prevent impulse buys and other mistakes.

Also, you may owe taxes. Some windfalls, such as lottery winnings and certain legal settlements, are subject to federal tax — as much as 37% federal tax if your windfall pushes you into the top income tax bracket. State and local taxes may apply as well. A tax professional can help you determine what you owe.

SHELTER FROM THE STORM

What you eventually decide to do with your windfall depends on many factors. If you have certain types of debt, you'll probably want to pay it off — especially if it carries a high interest rate and the interest isn't

deductible. Also, establishing or boosting your emergency savings can minimize the need to incur future debt.

Next, consider where you'd like to be five, 10 or 20 years into the future. Develop a budget that will help you move toward your goals — whether that means retiring early, starting a business or something else. You probably shouldn't quit your job. Few windfalls are large enough to see anyone all the way through retirement.

LONG-TERM PLAN

A final word of warning: Be careful when asked for money. Friends and family members may expect to share in your bounty or may pitch "sure-fire" investment opportunities. We can help you formulate a long-term plan to put a windfall to optimal use. ■

TAX CALENDAR

October 15

Personal federal income tax returns for 2020 that received an automatic extension must be filed today and any tax, interest and penalties due must be paid.

- The Financial Crimes Enforcement Network (FinCEN) Report 114 "Report of Foreign Bank and Financial Accounts" (FBAR) must be filed by today, if not filed already, for offshore bank account reporting. (This report received an automatic extension to today if not filed by the original due date of May 15th.)
- If an extension was obtained, calendar-year C corporations should file their 2020 Form 1120 by this date.
- If the monthly deposit rule applies, employers must deposit the tax for payments in September for Social Security, Medicare, withheld income tax and nonpayroll withholding.

November 1

The third quarter Form 941 ("Employer's Quarterly Federal Tax Return") is due today, and any undeposited tax must be deposited. (If your tax liability is less than $2,500, you can pay it in full with a timely filed return.) If you deposited the tax for the quarter in full and on time, you have until November 10 to file the return.

- If you have employees, a federal unemployment tax (FUTA) deposit is due if the FUTA liability through September exceeds $500.

November 15

If the monthly deposit rule applies, employers must deposit the tax for payments in October for Social Security, Medicare, withheld income tax and nonpayroll withholding.

- If an extension was obtained, calendar-year tax-exempt organizations should file their 2020 returns by this date.

December 15

Calendar-year corporations must deposit the fourth installment of estimated income tax for 2021.

- If the monthly deposit rule applies, employers must deposit the tax for payments in November for Social Security, Medicare, withheld income tax and nonpayroll withholding.

STATE TAXES IMPACT BUSINESS SALES, TOO

For various reasons, business owners sometimes decide to put their companies on the market. To successfully negotiate the sale of a business, it's critical to understand the tax implications. Armed with this knowledge, you can assess the impact of various transaction structures and sales price allocations on your net proceeds from the sale and potentially adjust the sales price accordingly.

Business owners tend to focus on the federal tax implications of a sale, but don't ignore state taxes. Now that federal tax rates are lower than they've been in the past, state taxes may take on added significance. If you're contemplating relocating or retiring to another state, it may make sense to consider moving before you sell the business — especially if the new state has low, or even no, income tax.

Before you attempt this strategy, however, be sure to consult a qualified tax advisor. Changing your domicile and residence for tax purposes isn't like flipping a switch. You'll need to take several specific actions to demonstrate your intent to establish a permanent place of abode in the new state, such as obtaining a driver's license, registering to vote, and becoming involved with local organizations and activities.

Keep in mind, too, that there may be rules about the number of days spent in the state. So, you may have to do more than take the steps above to show that you're a resident of your new state. For instance, if you live in your "old" state most of the year and spend only a couple months in your new state, you could find that, at least for tax purposes, you're deemed a resident of both states. We can help you prepare for the state tax implications of a business sale. ■