Tax Business Turbulence into Account – 2020 Year-End Tax Planning for Businesses

By Richard Morris, CPA, MST, Tax Practice Director
Councilor, Buchanan & Mitchell, P.C. – CPAs & Business Advisors

We can all agree that 2020 is unlike any other year. As we consider tax-planning strategies for the year end, major uncertainty continues concerning the severity of the pandemic and length of the economic recovery. Although Congress passed two major pieces of legislation in response to the health and economic impact of the coronavirus pandemic, it remains unclear if additional relief is forthcoming. In addition, some regularly expiring tax provisions are due to expire again at the end of 2020. In the meantime, the IRS continues to release significant guidance on provisions of the Tax Cuts and Jobs Act. As such, each business should consider the unique challenges and possible opportunities that this year presents. With that in mind, business owners are encouraged to contact us at 301.986.0600 to discuss their tax situation. CBM can develop a customized plan to save on 2020 taxes. In the meantime, here's a look at some of the issues we're recommending as year-end approaches.

COVID Relief

In addition to providing resources to the health community to help contain and combat the virus, the Families First Coronavirus Response Act offered employees and self-employed individuals affected by the pandemic with guaranteed paid sick leave. Provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act also included numerous tax benefits for businesses. Here are highlights for tax planning consideration at 2020 year-end.

- *The Paycheck Protection Program (PPP).* Under the Cares Act, a recipient of a covered loan can receive forgiveness of indebtedness on a PPP loan in an amount equal to the sum of payments made for qualified expenses. According to IRS guidance, the business expenses related to forgivable PPP loans are not deductible. However, lawmakers state that this was not their intent. Congress will need to address the deductibility of these expenses in future legislation to clearly make these expenses deductible.
- *Employee Retention Credits.* The employee retention credit is designed to encourage businesses to keep employees on their payroll and is available for qualified wages paid through the end of 2020. This credit is very similar to the paid leave credits granted to employers under the Families First Coronavirus Response Act with some changes to the requirements. Most significantly, neither the employee nor the employer has to be directly impacted by COVID-19. Employers can reduce their required deposits of payroll taxes withheld from employees' wages by the amount of the credit or request an advance of the employee retention credit. Eligible employers may use the employee retention credit with other relief, such as a payroll tax deferral, which may also affect deposits and advances.
- *Deferred Payroll Tax Payments*. Payroll taxes due from the period beginning on March 27, 2020 and ending on December 31, 2020, can be deferred. The total payroll taxes incurred by employers, and 50 percent of payroll taxes incurred by self-employed persons qualify for the deferral. Half of the deferred payroll taxes are due on December 31, 2021, with the remainder due on December 31, 2022.
- *Executive Memorandum on Withholding.* President Trump has authorized employers to defer the withholding of the employee's share of Social Security taxes through the end of 2020. However, unless Congress forgives the repayment of these taxes, they will have to be repaid in the first quarter of 2021. It is unclear as to how the deferred tax would be collected from individuals who are no longer employed when the taxes come due. Employers that are concerned with the administration and collection of the deferred taxes continue to withhold the taxes from their employees.

YEAR-END TAX PLANNING STRATEGIES MUST TAKE BUSINESS TURBULENCE INTO ACCOUNT – 2020 YEAR-END TAX PLANNING FOR BUSINESSES

Tax Cuts and Jobs Act modified under the CARES Act

Several tax provisions under the Tax Cuts and Jobs Act were modified by the CARES Act for 2020 and earlier years providing opportunities to amend prior year returns. A 15-year recovery period is retroactively assigned to qualified improvement property placed in service after December 31, 2017 allowing the property to be depreciated over 15 years or, alternatively, to qualify for 100 percent bonus depreciation. Net operating losses (NOLs) arising in tax years beginning in 2018, 2019, and 2020 now have a five-year carryback period with an unlimited carryforward period and are not limited to 80 percent of taxable income. The business interest deduction limit increased from 30 to 50 percent of the taxpayer's adjusted taxable income for the 2019 and 2020 tax years with special rules for partners and partnerships. The limitation on the deduction of excess business losses for noncorporate taxpayers does not apply for tax years beginning in 2018, 2019, and 2020. Corporations can accelerate the recovery of refundable AMT credits which allows corporations to claim a refund immediately and obtain additional cash flow during thE COVID-19 emergency.

Expiring Provisions

Taxpayers might consider taking advantage of the following tax benefits in 2020 before they expire. In some cases, these benefits were retroactively applied. In which case, it may be useful to amend prior year's returns if the savings are significant enough.

- The Work Opportunity Credit terminates for wages paid to workers that begin work for an employer after December 31, 2020.
- A deduction is allowed for all or part of the cost of energy efficient commercial building property (i.e., certain major energy-savings improvements made to domestic commercial buildings) placed in service after December 31, 2017 and before January 1, 2020.
- A three-year extension of the energy-efficient homes credit is available to eligible contractors for new homes manufactured after December 31, 2017 through December 31, 2020.

2021 Tax changes

We are not in the political prognostication business, but the President-elect has indicated his support for increased corporate and individual income tax rates and curtailment of certain deductions and a possible decrease in the estate exemption. At this point the law is unchanged, but we should discuss any significant changes you foresee in your business in the coming year.

Contact Us

There is no one size fits all for tax planning and any strategy may have unintended consequences if the taxpayer's situation is not evaluated holistically considering changing landscape. Traditional methods for postponing income and accelerating deductions may not be the best option if tax rates rise after an election year.

Please contact CBM Tax Practice Director Richard Morris with any question about your tax situation at 301.986.0600 or via email at rmorris@cbmcpa.com.