Plan for change

How to make the most of the new tax conditions

When faced with the uncertainty of what the nation's economy will look like even by the end of this year, tax planning seems almost futile. But any savvy business owner will tell you that lack of planning is basically planning to fail.

Even in this environment, it is possible to find opportunities and develop long-term strategies. With a line of attack and advice from qualified experts, investors can make sense of the challenges ahead.

Smart Business learned more from Robert N. Greenberger, a tax partner in the Advisory Business Services Department at Habif, Arogeti & Wynne, LLP, about what changes to expect in the near term and how to evaluate tax-savings goals for future.

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With the increasing costs facing the U.S. government, there are concerns that the Obama administration will increase income taxes soon. Can we expect to see an increase?

Absolutely. If you could securitize tax rates, brokerage houses would have 'buy' signals. You can count on them going up.

The question is: When will they go up and how much? Under Bush's plan, the current 35 percent ordinary and 15 percent capital gains tax rates will continue until Dec. 31, 2010. The rates are automatically scheduled to revert to 39.6 percent and 20 percent respectively on Jan. 1, 2011. One school of thought is that the tax rates will not be increased before 2011 because of the struggling economy. Other analysts believe that Congress will increase the rates before the end of 2009.

Why would anyone want to raise rates any earlier than 2011?

Many believe that if the economy rebounds in 2009, taxpayers could absorb a tax increase. An increase in tax rates late in 2009 could be applied retroactively to Jan. 1, 2009, just as Clinton's August 1993 tax increase was applied. This group of analysts believes that pressure for federal funding for banking bailouts, health care reform, military and other needs creates the need for additional tax revenues now. From a political standpoint, Democrats may want to raise taxes in 2009 while they still enjoy broad support instead of waiting until 2010, which is an election year for Congress. If Congress does not increase tax rates in 2009 or 2010, opponents could claim they are effectively allowing the tax increase that is scheduled for 2011.

With the likely prospect of an increase in taxes, is there anything taxpayers can do?

Tax planning is absolutely essential. Taxpayers should meet with their tax consultant to discuss the many tax savings opportunities that might be appropriate for them. While the tendency for most people is to only meet with their CPA annually to prepare their tax returns, the primary benefit and real value of utilizing a tax consultant comes from planning for their particular tax situation in advance to minimize taxes. A CPA's development of strategic tax planning ideas for clients should be their main focus.

What planning opportunities are still viable?

Depending on the particular taxpayer and his or her situation, there are many tax planning opportunities. Captive insurance companies (CIC) have become a tremendous vehicle for business owners who want to have more funds for retirement and also have a desire to have a self-insured plan funded by tax-deductible premiums. While the premiums are tax deductible, the first $1.2 million of income received by the CIC is tax-free. Funds not used to cover insurable incidents may be retained by the owner and used for retirement funding or as a source of funds to transfer to the next generation. With proper planning, there is no income tax on the receipt of the premiums and no estate tax on the transfer of wealth. This planning vehicle works best for those business owners that have $200,000 or more of business income that they want to utilize.

Are there planning ideas for taxpayers with less funds to invest?

Conservation easements provide a tax planning opportunity for landowners. By preserving their land for future generations and assuring no development on their property, the IRS provides a charitable contribution deduction (for the difference between the property with and without the conservation easement restrictions). Those that are not landowners may be able to purchase property with other investors in an LLC. If the LLC subsequently has a conservation easement placed on the property, all of the LLC owners would share in the charitable contribution deduction based on their share of the LLC.

Lastly, businesses or individuals that own buildings can increase depreciation deductions by having a cost segregation study performed on their property. CPA firms who provide these services will usually provide the building owner, for no fee, the expected benefit (present value of the increased depreciation deductions) and the cost to perform the study. It is not uncommon for the benefit to be 10 or more times the cost.

There are many other planning opportunities for individuals as well as businesses, but the key is having taxpayers partner with a tax consultant to determine which strategies fit with their fact pattern and goals. <<

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