GUMBINER SAVETT INC.
ASSURANCE • TAX • BUSINESS ADVICE

SOLUTIONS + PERSPECTIVE

February 2017 Client Newsletter

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5 Tax Planning Considerations Under the Trump Administration

There is a lot of speculation about how tax law may change with the new administration being very vocal about the need for tax reduction. Most agree that changes are coming, the question is if any changes will take effect retroactively to cover the 2017 year, or if 2018 would be the target start date.

With the proposed tax cuts, traditional wisdom of accelerating deductions and deferring income still makes sense. Push your income into the next year wherever possible, with the hope that the promised tax cuts materialize. The proposed changes would indeed lower tax rates across the board and potentially repeal the 3.8% tax on Net Investment Income (part of the Affordable Care Act). There is more to the picture and there are a few key items to consider for tax planning.

1.Capping Itemized Deductions

Itemize deductions would be capped at $100,000 for single and $200,000 for married filers. For high net worth individuals, this change could be significant. One of the major deductions for higher income taxpayers is the charitable contribution deduction. Many have charity that would push them over these proposed limits. Would they still be as charitable if the tax benefit were limited in this way? Maybe. Many will continue to give since their main motivation is not the tax benefit, but it may give others pause.

Those who are subject to Required Minimum Distributions (RMD) from their IRA accounts have another option, in that they can make qualified charitable contributions directly from their IRA accounts. These contributions do not get counted as a deduction on your personal tax return, thus lessening the chance itemized deductions will be over the new proposed threshold. In addition, charity paid from an IRA will count toward the taxpayer's RMD for the year, thus reducing the amount required to be distributed and counted in income during that year.

The state income tax deduction could also be an issue if these new limits are set in place. In high tax states, such as California and New York, the state income tax paid and deducted is often a sizable portion of itemized deductions, making it more likely taxpayers in these high tax states will be above the proposed thresholds.

2.Alternative Minimum Tax

The Alternative Minimum Tax (AMT) was originally meant to ensure the wealthy pay their fair share of tax. In recent years, this tax has become common in middle-income households, which was not the original intent. Current proposals call for eliminating AMT.

The National Taxpayer Advocate office has been calling for repeal of the AMT for several years, stating on their website "The AMT is complicated and burdensome and it does not achieve its intended goal."

3.Capital Gains/Dividends

Long term capital gains and qualified dividends would retain favorable tax treatment under the proposed plans. They are currently taxed at a maximum 20% rate, but could also be subjected to the 3.8% Net Investment Income Tax, bringing that rate to 23.8%. The current proposals call for eliminating the Net Investment Income Tax.

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5 Tax Planning Considerations Under the Trump Administration (continued)

Short term gains would still be taxed at normal ordinary income rates. Currently, taxpayers in the top bracket are taxed at 39.6%, plus would be subjected to the 3.8% Net Investment Income Tax, for a total of 43.4%. The new proposals call for a maximum tax rate of 33% and eliminate the Net Investment Income Tax. The savings could be substantial.

4.Head of Household Filing Status

Head of Household filing status would be eliminated under the proposed plans. Current Head of Household filers would file as either Single or as Married Filing Separately, depending on their situation. Currently, both of those statuses have higher tax rates than the Head of Household status.

5.Tax Rates

Current proposals call for collapsing the current seven tax brackets into three, with a top rate of 33%. This is down from the current top rate of 39.6%.

Proposed Individual Rates

Rate	Joint filers	Single filers
12%	up to $75,000	up to $37,500
25%	$75,000 – $225,000	$36,500 – $112,500
33%	above $225,000	above $112,500

This is just a broad overview of only some points in the draft proposals. While it is not certain that these proposals will become law, it does seem clear that there will be a push to implement change, and that any change would focus on tax cuts.

There are also proposed changes that would encompass taxes for businesses, and an overhaul of estate tax laws. Your tax professional can help you plan for potential changes and keep you informed as these proposals work their way through congress.

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Estate Planning Strategies for Married Couples

It's crucial to review and update your estate plan in light of significant life changes or new tax laws. It's equally important to be aware of strategies that can be implemented after your death to achieve your estate planning goals. The flexibility postmortem strategies provide is especially important during times of estate tax law uncertainty, like now. If you're married, here are two postmortem estate planning strategies you should know about.

1. Spousal right of election

The spousal right of election provides a way to alter the planned distribution of your wealth after you're gone. In most states, a surviving spouse has the right to circumvent his or her spouse's will and take an elective share (one-half or one-third, for instance) of certain property.

So, for example, let's say you leave all of your assets to your children or other beneficiaries. Your spouse might exercise his or her right of election if it would produce a more favorable tax outcome. Even if the federal estate tax is repealed, which is on the agenda of President Trump and the Republican majority in Congress, there may be state estate tax or income tax consequences to consider.

2. QTIP trust

Qualified terminable interest property (QTIP) trusts are often used to take advantage of the marital deduction while ensuring that assets are preserved for the children (particularly children from a previous marriage). They also receive some creditor protection.

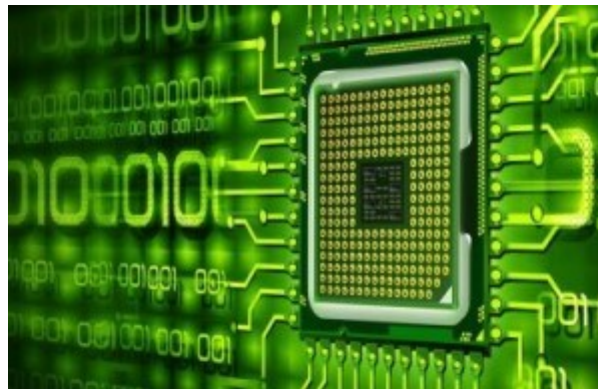
Ordinarily, to qualify for the marital deduction (which allows assets to transfer from one spouse to the other free of federal gift and estate tax), you must transfer assets to your spouse with no strings attached. The QTIP trust is an exception to this rule.

So long as your spouse receives all of the QTIP trust income for life and certain other requirements are met, your estate can enjoy the benefits of the marital deduction while still preserving assets for your children or other beneficiaries. When your spouse dies, any remaining trust assets pass to your beneficiaries but are included in your spouse's taxable estate.

Here's where the postmortem planning comes in: To claim the marital deduction for amounts transferred to a QTIP trust, your executor (called a "personal representative" in some states) must make an election on your estate tax return. A properly designed QTIP trust gives your executor the flexibility to make the election, not make the election or make a partial election, depending on which strategy would produce the optimal results. Because a QTIP trust creates opportunities for postmortem estate planning, it may be a good strategy even if you don't need it to protect your children or assets.

By Gumbiner Savett Editorial

Tech Company Tax and Accounting Considerations



If you run a technology business, you are aware of the high demands inherent in such a fast-paced field. The need to stay ahead of the competition demands fore-thought and innovation like no other industry. But have you considered your success may depend on more than having the best product.

Most high-technology businesses begin as private en-deavors with the ultimate goal of going public. With that kind of growth on the horizon, it can be easy to get wrapped up in product development and fail consider how important accounting and tax advice is to your upward mobility. Without a solid plan for the correct business structure and tax strategies, your business may have to over-come more than the competition.

ATTRACTING TALENT

Attracting the best talent will be one of your first hurdles. Capital is likely tight while your product is still on the drawing board. This is the time to look at stock based compensation structures. Stock options and restricted stock units can be an enticing addition to compensation packages, helping you to compete with larger, more established, companies for the talent you need.

Stock Options: A stock option is the right to buy stock in the future at a fixed price. The options will typically have conditions attached, reflecting such items as expiration dates and requiring employment for a length of time (a vesting period). The option may even require the achievement of certain performance goals before the option is exercised.

Stock options can have favorable tax treatment for the employee, but only if the initial setup follows the rules for incentive stock options (ISOs). Otherwise, your options would be classified as non-qualified stock options (NQOs). ISOs can only be granted to employees, whereas NQOs can be granted to both employees and outside consultants.

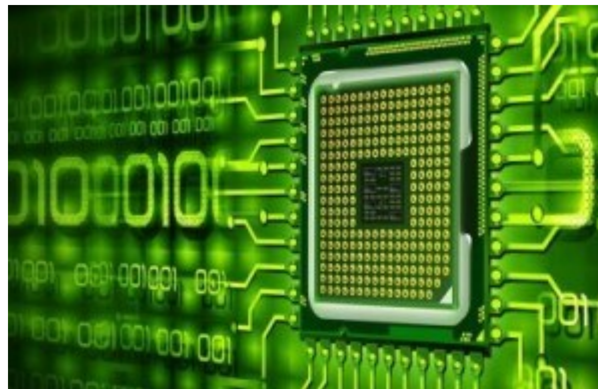
Restricted Stock Units: A restricted stock unit (RSU) is a grant of company stock, but the stock is not handed over immedi-ately. There will be certain restrictions or requirements before the stock that was granted is actually released to the employ-ee. Some RSU agreements may require employees to pay a purchase price for the grant. The units are typically forfeited if the restrictions or requirements are not met.

RSUs differ from stock options in that stock options are the option to buy a stock at a set price. An RSU is stock that is grant-ed, though the employee can be required to pay a price for the grant. Both will likely be subject to certain conditions and timing restrictions.

Make sure your advisor is knowledgeable in the rules for each type of stock option or grant so there are no surprises down the road.

By Gumbiner Savett Editorial

Tech Company Tax and Accounting Considerations (continued)



CAPITAL FUNDING

Funding will be another initial challenges. You have many options to consider for funding your capital needs. Your business advisor can assist with suggesting potential funding sources, which may include bank loans or outside investors (venture capitalists).

Whether you are applying for a loan or presenting your idea to a potential investor, you should have a business plan in place ahead of time. Your business plan will show that you have a viable idea that you are approaching in a serious and professional manner.

MULTI-STATE NEXUS

Are you ready to do business across state lines? Technology businesses frequently do business or sell their product outside of the state, or even outside of the country. You will need to determine if you have "nexus" in states in which you do business. Nexus is defined as a means of connection, tie, or link and is the term that is used when determining if a business has a physical presence in another state.

States have become aggressive in recent years in claiming that businesses have nexus within their borders. This is a revenue source that states have begun fighting for. Federal law limits states' ability to assess income taxes on businesses that do not have a physical presence in their state, resulting in states using increasingly lower thresholds to determine if physical presence, or Nexus, is met.

You will need to be aware of each state's or country's income tax laws, and how it will affect the cost of doing business in that particular place. Also consider that there may be separate sales tax requirements in each state you reach. There is much at stake in determining Nexus and handling multi-state reporting.

These are just a few of the accounting and tax issues you will need to address for your technology start-up. As you can see, it is of vital importance to work closely with your tax and business advisors when starting your business, for they can help guide you through the myriad of financial and tax issues that are sure to come up as your business grows.

By Gumbiner Savett Editorial

Business Tax Return Due Dates Changing

Corporations and partnerships will have different due dates for their income tax returns starting for the 2016 year. Here is what you need to know.

Earlier Due Dates for 2016 Partnership and LLC Returns

Partnership federal income tax returns, filed on Form 1065, had been due three and a half months after the end of the partnership tax year. For a calendar-year partnership, the filing deadline was April 15 of the following year.

Now, the Form 1065 due date has been accelerated to March 15 for calendar-year partnerships. The same deadline applies to limited liability companies (LLCs) that are treated as partnerships for federal tax purposes.

Automatic six-month extensions can be obtained (to September 15 for a calendar-year partnership or LLC) by filing Form 7004 by the new March 15 due date.

Later Due Dates for 2016 Corporate Federal Income Tax Returns
C corporation federal income tax returns, filed on Form 1120, had been due two and a half months after the end of the corporation's taxable year (March 15 for a calendar-year corporation).

For tax years beginning after December 31, 2015, the due date is generally moved to three and a half months after the corporate year end, to April 15 for a calendar-year corporation.

Automatic five-month extensions are allowed (to September 15 for a calendar-year corporation) by filing Form 7004 by the new April 15 due date.

Note: Under a special transition rule for C corporations with fiscal years ending on June 30, the due date change will not kick in until tax years beginning after 2025. Until then, the traditional due date of September 15 for these corporations will continue to apply, with automatic seven-month extensions allowed.

The Form 1120S due date for S corporations is unchanged.
Filing due dates for S-Corporations will remain unchanged. They will continue to file by March 15, with an extension of time available until September 15.

Need Help with Compliance?
If you have questions about the new filing deadlines for tax returns or information returns, or you want to file an extension, contact your tax advisor.

By Gumbiner Savett Editorial

New Due Dates for 1099-MISC and W-2

Businesses should be aware of new due dates for filing Forms 1099-MISC for their independent contractors, and employee W-2 forms.

Previously, businesses had until the end of February to file these 1099s and W-2s with the IRS and the Social Security Administration (or by March 31 if filed electronically). Now, the due dates have been accelerated.

Starting with returns for the 2016 calendar year (which must be filed in early 2017), the new due date for 1099 and W-2 filings is January 31. The March 31 due date for electronic filings is no longer available. All 2016 Forms 1099-MISC and W-2s must be filed with the IRS and the Social Security Administration by January 31, 2017. One 30-day extension may be requested for the 2016 filings. To obtain this extension, you must file Form 8809, "Application for Extension of Time to File Information Returns," by no later than January 31.

NOTE: The deadline to supply payee statements to recipients remains January 31, with no extensions allowed.

The goal of the new earlier deadline is to give the IRS more time to spot errors on tax returns. Having the statements already filed and on hand before the related income tax returns come in, will make it easier for the tax agency to verify the legitimacy of those returns and properly issue refunds to taxpayers eligible to receive them.

Reducing tax refund fraud has been a priority of the federal government in recent years, and this new timing is one of many steps being taken to assist in that effort.

By Gumbiner Savett Editorial

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