

Business Year End Letter

Dear Client,

Once again we find ourselves nearing the end of the year and wondering what Congress will do as far as extending important tax breaks for businesses. Extender legislation aside, there have been some tax developments this year of which you should be aware. It would be helpful for us to meet before the end of the year, not only to review projections of your business's net income for 2015 and ensure that estimated tax payments are in line with those projections, but also to nail down any end-of-the-year actions that may be appropriate to reduce your 2015 tax liability. At the same time, we can discuss next year's income projections and plan the quarterly estimated tax payments for 2016. The following are some items you may want to consider with respect to your 2015 business tax return.

Code Sec. [179](#) Expensing

One of the biggest tax benefits to a business is the Section 179 deduction, which allows taxpayers to write off property purchases that would otherwise be capitalized and depreciated. At the end of 2014, last-minute legislation extended the generous deduction of prior years to property purchased in 2014. As a result, a business was eligible to expense up to \$500,000 of qualified property placed into service in 2014 (i.e., the Section 179 deduction). Currently, for property placed in service in 2015, the Section 179 expense deduction is capped at \$25,000. It's still worthwhile to evaluate whether it's appropriate in your situation to increase capital improvement purchases to take advantage of this deduction.

Note that there is currently a bill before the Senate (S. 1946, The Tax Relief Extension Act of 2015) which, if passed by Congress and signed into law, will extend to 2015 and 2016 the same \$500,000 Section 179 deduction allowed to businesses in 2014.

Retroactive 2014 Bonus Depreciation

The IRS has recently issued guidance on how fiscal year taxpayers can retroactively elect to take the 50-percent bonus depreciation deduction for qualified property placed in service during the 2014 portion of fiscal years beginning in 2013. The guidance, which additionally addresses carrying over disallowed Code Sec. [179](#) deductions for qualified real property, applies to taxpayers who filed their 2013 returns (or 2014 short year returns) before enactment of last year's tax extenders bill on December 19, 2014. If you are eligible, we should meet to discuss the possibility of electing the retroactive bonus depreciation.

Vehicle Deductions and Substantiation

Expenses relating to vehicles used in a business can add up to major deductions. The deductible vehicle expenses of a business are generally calculated using one of two methods: the standard mileage rate method or the actual expense method. If the standard mileage rate is used, parking fees and tolls incurred for business purposes can be added to the total amount calculated.

Since the IRS tends to focus on vehicle expenses in an audit and disallow them if they are not properly substantiated, you should ensure that the following are part of your tax records with respect to each vehicle used in your business: (1) the amount of each separate expense with respect to the vehicle (e.g., the cost of purchase or lease, the cost of repairs and maintenance); (2) the amount of mileage for each business or investment use and the total miles for the tax period; (3) the date of the expenditure; and (4) the business purpose for the expenditure. The following are considered adequate for substantiating such expenses: (1) records such as an account book, diary, log, statement of expense, or trip sheets; and (2) documentary evidence such as receipts, canceled checks, bills, or similar evidence.

Records such as an account book, diary, log, statement of expense, or trip sheet are considered adequate to substantiate the element of an expense only if the records are prepared or maintained in such a manner that each recording of an element of the expense is made at or near the time the expense is incurred.

S Shareholder Salaries

The IRS is scrutinizing the salaries, or lack thereof, paid to S shareholder-employees. Some S shareholders prefer to take money out of an S corporation as a distribution rather than a salary on which employment taxes must be paid. The IRS has been going after such shareholders. Thus, if you are actively involved in an S corporation, you must be paid a "reasonable compensation" for your services. The key to establishing reasonable compensation is determining what type of work you did for the S corporation as an employee-shareholder. If you are in this situation, we need to document the factors that support the salary you are being paid.

Retirement Plans

While your business is not required to have a retirement plan, you may want to consider adding one. By starting a retirement savings plan, you not only help your employees save for the future but also attract and retain qualified employees. Such plans offer tax savings to your business because employer contributions are deductible from the business's income. Additionally, a tax credit is available to small employers for the costs of starting a retirement plan. Please let me know if this is an option you would like to discuss further.

Changes Made to Tax Return Due Dates

A new law changed the due date for partnership and C corporation tax returns. It also extended the automatic extension for corporate income tax returns from three to six months. The changes generally apply to tax years beginning after 2015.

The due date for partnership returns has been moved up to coincide with the due date of S corporation returns. Thus, partnership returns are now due by the 15th day of the third month after the close of the partnership tax year. The change is meant to help individual partner's avoid having to file an extension because partnership K-1s don't generally arrive until after the April 15 due date for individual tax returns.

The due date for filing a C corporation return has been changed from the 15th day of the third month (i.e., March 15 for a calendar year corporation) to the 15th day of the fourth month (i.e., April 15 for a calendar year corporation). However, there is an exception for C corporations with a June 30 fiscal year. The due date for filing a June 30 C corporation return remains the 15th day of the third month following the end of the year (i.e., September 15) for the next 10 years. All other changes are effective for tax years beginning after 2015.

Overstating Basis of Property Sold Can Extend Statute of Limitations

The same new law overrides a Supreme Court decision that was favorable to taxpayers. The new law extends the statute of limitations from three years to six years in cases where a taxpayer overstates the basis in property sold and thus understates the gain on the sale. The change applies to (1) returns filed after July 31, 2015, and (2) returns filed on or before July 31 if the statute of limitations (determined without regard to the change) for assessment of the taxes with respect to which such return relates has not expired as of such date.

Tax Extender Legislation

As previously mentioned, tax extender legislation is before the Senate and, if signed into law, will extend the increased Code Sec. [179](#) deduction limitations to 2015 and 2016. Another large tax break included in the legislation is bonus depreciation. Bonus depreciation allows a 50-percent additional first year depreciation deduction for qualified property acquired by a taxpayer after 2007 and placed in service by the taxpayer before 2014. This benefit was extended at the last minute in 2014 to businesses who placed property in service before January 1, 2015 (before January 1, 2016, for certain longer-lived and transportation assets) and also allowed a business to elect to accelerate some AMT credits in lieu of taking the bonus depreciation.

Currently, there is no provision for taking bonus depreciation for assets placed in service in 2015. However, under S. 1946, the bonus depreciation deduction would be extended to property placed in service in 2015 and 2016. Other items in the legislation that, if passed and signed into law, will be extended through 2015 and 2016 include the following:

- (1) the classification, for depreciation purposes, of certain race horses as three-year property;
- (2) accelerated depreciation of qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements;
- (3) the classification, for depreciation purposes, of motorsports entertainment complexes as seven-year property;
- (4) accelerated depreciation of business property on Indian reservations;
- (5) the deduction for charitable deductions of food inventory by taxpayers other than C corporations;
- (6) the election to expense mine safety equipment;

- (7) the expensing allowance for certain film and television productions and the cost of live theatrical productions;
- (8) the deduction for income attributable to domestic production activities in Puerto Rico;
- (9) tax rules relating to payments between controlled foreign corporations and dividends of regulated investment companies;
- (10) the subpart F income exemption for income derived in the active conduct of a banking, finance, or insurance business;
- (11) the tax rule exempting dividends, interest, rents, and royalties received or accrued from certain controlled foreign corporations by a related entity from treatment as foreign holding company income;
- (12) the 100 percent exclusion from gross income of gain from the sale of small business stock;
- (13) the basis adjustment rule for stock of an S corporation making charitable contributions of property;
- (14) the reduction to five years of the recognition period for the built-in gains of S corporations; and
- (15) tax incentives for investment in empowerment zones.

Contracts Involving Regular Performance of Services

A new safe harbor is available for accrual method taxpayers who have contracts under which services are provided to them on a regular basis (for example, contracts for janitorial or I.T. services). Under the safe harbor, a taxpayer can potentially accelerate deductions related to the cost of such services in situations where the services are either recurring in nature or are expected to be performed within 3 1/2 months of the end of the tax year.

If you have contracts with service providers who perform regular and routine services that might qualify for the safe harbor, we should discuss the possibility of making an accounting method change in order to take advantage of the accelerated write-offs.

Please call me at your convenience so we can set up an appointment and discuss your business's tax situation before year end.

Sincerely,

Heather Jenkins, CPA

Jenkins CPA, LLC

