TAX UPDATES AND PLANNING FOR BUSINESSES

With tax year 2022 coming to a close, we need to consider what can be done to help lower your tax bill for this year and next. With the uncertainty of pending legislation, here are some tax planning ideas for Businesses:

Review your accounting method

Businesses typically use either an accrual method of accounting or the cash basis. Under an accrual method, income and expense is recognized when: 1) All events have occurred to deduct the cost or recognize the income and 2) the amount can be determined with reasonable accuracy. Under the cash basis, income is recognized when actually or constructively received and expenses are generally deducted in the year paid. Many businesses were prohibited from using the cash basis of accounting due to restrictions on gross income levels or the required use of inventories. The Tax Cuts and Jobs Act of 2017 (TCJA) has expanded the definition of who qualifies to use the cash basis of accounting. Businesses with average annual gross receipts (3-year average) under $27 million can now qualify to use the cash method of accounting. Is the cash method right for your business?

Cost Segregation Analysis

A Cost Segregation Analysis is a commonly used strategic tax planning tool that allows companies and individuals who have constructed, purchased, expanded or remodeled any kind of real estate to accelerate depreciation deductions. When a property is purchased, not only does it include a building structure, but it also includes all of its interior and exterior components. Many of those components fall into tax categories that can be written off much quicker than the building structure. A Cost Segregation Analysis dissects the construction cost or purchase price of the property that would otherwise be depreciated over 27 ½ or 39 years. The primary goal of a Cost Segregation Analysis is to identify all property-related costs that can be depreciated over 5, 7 and 15 years.

Bonus Depreciation

Bonus depreciation allows for the accelerated depreciation of capitalized assets with depreciable lives of 20 years or less. The allowable bonus depreciation is typically 100% of the cost of the property, with the exception of certain passenger automobiles that are subject to dollar limits on a per vehicle basis. Placing bonus-eligible assets in service before year end can be an effective way to reduce your Federal tax liability. Caution: New York, and many other states, don’t accept bonus depreciation. Bonus depreciation claimed on the Federal return must be added back in full to NY taxable income, and the bonus eligible property is depreciated over the normal recovery period. Please note that based on the Tax Cuts and Jobs Act (TCJA), the bonus depreciation will drop to 80% in 2023.

Expensing Business Property (Section 179)

For 2022, the expensing limit is $1,080,000 and is generally available for most depreciable property (other than buildings) and off the shelf computer software.

Planning with Year-End Bonuses

If a business is having a successful year consider making bonuses to employees. An accrual basis taxpayer can accrue bonuses, and get a deduction in 2022 as long as they make the payments by March 15, 2023. Please note that bonuses accrued to owners do not qualify.

If an owner believes they are underpaid for estimated taxes, a year-end bonus paid by December 31, 2022 can be used to withhold additional federal and state taxes.

Another bonus strategy relates to an existing C corporation that is making an election to be treated as an S corporation. An existing C corporation that makes this election is subject to built-in-gains (BIG) tax for a 60-month period after electing S status. Any asset sold during the 60-month period that has a BIG attached is subject to C corporation tax rates. An accrued bonus to an owner that is paid in the following year is considered a built- in-loss that can be used to reduce BIG tax in the future.

Other Miscellaneous items

Consider moving income into 2022 from 2023 if you anticipate a small net operating loss this year. By creating a small amount of net income, a C corporation can base their 2023 estimated tax payments on the 2022 safe-harbor tax rather than calculating estimates on a quarterly basis.

If you have a passive activity with suspended losses, consider disposing of the activity to free up those losses.

These are just a few planning ideas to consider for 2022 or 2023 and are general in nature. If you have any questions or need further information please contact your TBC advisor.

TAX CONSIDERATIONS IN LIGHT OF NEW LEASE STANDARDS

Over five years after its original issuance, the new accounting lease standard (ASC 842) will become effective for all private companies for fiscal years beginning after December 15, 2021. While we have discussed the financial statement impact of ASC 842 in previous editions of TBC Today, companies should also consider the potential impact on their future tax filings.

As a reminder, prior to ASC 842, operating lease payments were treated as expenses over the life of the lease and were disclosed in the footnotes of the financial statements. Under the new standard, lessees will now be required to report a liability for the present value of future lease payments and a corresponding "right-of-use" asset on their financial statement balance sheet. The lease payments related to these operating leases will be expensed on a straight-line basis for financial statement purposes.

Despite the significant changes to lease reporting for financial statement purposes, ASC 842 does not make any changes to the treatment of leases for income tax purposes. As in the past, the characterization of a lease for tax purposes may differ from the characterization required for financial statement purposes. For example, based on the facts and circumstances an arrangement treated as a lease for financial statement purposes may be treated as a sale for tax purposes if sufficient ownership and/or control has transferred to the lessee. As a result, the taxpayer would depreciate the asset as if they owned it for tax purposes but would continue to deduct the lease payments over the life of the lease for financial purposes. As businesses take a close look at their leases in light of ASC 842, it may be prudent to evaluate how these leases have been treated for tax purposes; if using an improper tax method it may be appropriate for the business to consider making an accounting method change on their next tax return.

Due to the potential for different characterization of leases for financial and tax purposes, taxpayers entering into lease transactions should be aware that may need to make certain adjustments to financial statement income to arrive at taxable income. Further, taxpayers operating as C Corporations will need to consider the impact of these differences when computing their deferred tax assets and liabilities.

Due to the many complexities of ASC 842 and the potential impact on both financial statement and tax reporting, we encourage businesses that are party to lease transactions to consult their trusted TBC advisor to discuss the new standard in more detail.

NYS PASS THROUGH ENTITY TAX PROGRAM

The New York State's Pass Through Entity Tax (PTET) program allows eligible partnerships and S corporations to pay tax at the entity level to provide tax deductions that may otherwise be disallowed when the income is reported on the partners'/shareholders' personal returns. The program allows the partners/shareholders the ability to deduct New York State taxes paid on their federal tax return by reducing total income from the electing

entity. In addition, the business taxes paid will be allowed as a credit against the New York State tax due on the New York personal income tax return

This program was a direct result of the enactment of a controversial provision of the Tax Cuts and Jobs Act (TCJA) limiting the itemized deductions related to state taxes to $10,000 (real property taxes plus state & local income taxes) per year. A number of states, including New York, responded by enacting a pass through entity tax (PTET) on S corporations and partnerships (including multi-member LLCs) to help benefit the direct owners impacted by the tax limitation.

New York State's version of this program was created for tax years beginning on or after January 1, 2021.

Electing into the PTET Program and Required Estimated Payments

To file and pay PTET tax, the eligible partnership or S corporation must make an irrevocable annual election by March 15 for the current calendar year, this includes fiscal year filers. For the 2022 year only, the election period has been extended to September 15, 2022.

Electing entities are required to make four equal estimated tax payments for every quarter of a calendar year due on March 15, June 15, September 15 and December 15, regardless of whether the entity has a calendar or fiscal year-end.

If the entities are making the PTET election under the extended deadline estimated PTET payments are required or the election will be deemed invalid. The "late" election occurring between March 16th and September 15th , 2022, requires the entity to make an estimated tax payment equivalent to 75% of their annual PTET tax by September 15th.

It is important to remember that an authorized representative, not a tax professional, of an eligible entity must make an election to file the PTET tax every year on the entity's NYS online account. Once the election has been made for a tax year it cannot be revoked and any payments must be withdrawn electronically from the entity's bank account.

PTET Annual Return

The PTET tax return is due on March 15 of the following year (the 2022 return is due March 15, 2023); fiscal year taxpayers will file by March 15 following the close of the calendar year that contains the final day of the entity's tax return. A six month extension may also be filed.

The return is filed using the NYS online tax portal. Filing requires the calculation of the NYS taxable income, the names and the Social Security Numbers or Employer Identification Numbers of the partners/shareholders receiving the PTET tax Credit.

Calculating PTET Tax Due and Corresponding Credit

There are two different calculations of the PTET tax depending on entity type and whether the partners/shareholders are residents or nonresidents of New York State. In general, it is the amount of New York sourced income included on the partners/shareholders individual tax returns times a graduated rate starting from % on the first $2 million of a PTE's taxable income up to a maximum of 10.9% on taxable income in excess of $25 million.

A NYS tax credit is available for a direct partner or shareholder of an electing PTE; the credit is based on their distributive share of the PTE taxes paid by the entity. Both resident and non-resident owners may be entitled to this credit. If an individual is a partner/shareholder in multiple electing entities, his or her total credit is equal to the sum of such credits calculated separately for each entity. If the credit exceeds tax due for the taxable year, it should be treated as an overpayment, which can be credited or refunded, without interest.

Any individual that is claiming a tax credit for PTE taxes paid must have a corresponding NY addback of the amount of the PTE tax deduction (while the PTE tax is deductible in computing a PTE owner's federal taxable income, it is not allowed as a deduction in computing such owner's NYS taxable income).

The mechanics of this election are complicated and we recommend that you contact your TBC Advisor to review

whether this election is right for your tax situation.

NEW YORK STATE MAKES IMPORTANT UPDATES TO PASS-THROUGH ENTITY TAX

Extends election due date to September 15, 2022 and creates new opportunity for certain S corporations

On May 6th, 2022 Governor Hochul signed a bill extending the due date to elect into New York State's pass-through entity tax (PTET) regime until September 15, 2022 for the 2022 tax year. While this extension provides welcome relief for eligible partnerships and S corporations that failed to meet the original March 15th deadline, those taking advantage of the extension should note that they must meet certain payment requirements in order for their election to be valid. In addition to the most recent bill, a bill passed earlier in 2022 created a new category of S corporations, "resident S corporations", that may benefit from a revised PTET calculation resulting in a larger tax deduction as outlined below.

Eligible partnerships and S corporations making an election into PTET under the extended deadline are still required to make estimated PTET payments to the NYS Department of Tax and Finance throughout the 2022 tax year. If an eligible partnership or S corporation files their PTET election between March 16th and June 15th, 2022, the entity must make an estimated tax payment equivalent to 25% of their annual PTET tax with their election. Any eligible partnership and S corporation that files a PTET election between June 16th and September 15th, 2022 must make an estimated tax payment equivalent to 50% of their annual PTET tax with their election. Failure to make these payments with an election will nullify the election and the entity will not be eligible to participate in the PTET program for 2022.

As a reminder, the PTET program allows eligible partnerships and S corporations to pay tax at the entity level to provide state tax deductions that may otherwise be disallowed at the owners' level. Previously, electing partnerships calculated their PTET on all income allocated to New York resident owners plus all New York source income of nonresident owners, while S corporations could only calculate their PTET on the New York source income apportioned to owners. Under the 2022 rules, an S corporation owned solely by New York residents will be classified as a resident S corporation. Similar to partnerships, resident S corporations will calculate their PTET on all income allocated to the New York resident owners regardless of where it is sourced. As a result of this new rule and the extended election deadline, S corporations qualifying as resident S corporations that previously didn't elect into PTET due to low New York source income may want to reconsider an election into the program.

It is important to remember that an authorized representative, not a tax professional, of an eligible partnership and S corporation must make an election to file the PTET tax every year on the entity's NYS online account. Once the election has been made for a tax year it cannot be revoked and any payments must be withdrawn electronically from the entity's bank account. You can read our previous article about how to make the election here.

If you have any questions or think you may benefit from making a PTET election, please consult your TBC advisor.

CHOOSING THE RIGHT RETIREMENT PLAN FOR YOUR BUSINESS

A retirement plan is a great way for business owners and self-employed individuals to build wealth for retirement. Most plans are easy to set up and operate and offer significant tax advantages. Plus, you generally can contribute more to a business retirement plan than you can to a personal IRA. Here are a few types of plans to

consider. Your financial professional can tell you more about them and help you determine if one may be a suitable option for you.

SEP IRA

- Easy to set up and operate.
- High contribution limits.
- Funded by employer contributions only.
- Employers do not have to contribute every year.

A Simplified Employee Pension plan, also known as a SEP IRA, is one of the easiest retirement plans to set up and run. Administration is minimal, and annual government filings are not required.

With this type of plan, separate IRA accounts are set up for you and your eligible employees. The accounts are funded solely by the employer, who contributes the same percentage of compensation for each eligible employee.

Contributions can range from 0% to 25% of compensation[1] and are capped at $61,000 per employee in 2022. The percentage can vary from year to year, which gives you the flexibility to adjust contributions every year or even skip making them altogether.

When deciding whether a SEP IRA is right for you, keep in mind that your company must contribute the same percentage of compensation for every eligible employee. So if your goal is to max out your own account by contributing 25% of your compensation, your company must also contribute 25% of each employee's compensation to their accounts.

SIMPLE IRA

- Easy to set up and operate.
- Your employees can contribute.
- Employer contributions are required.
- Available only to self-employed individuals or businesses with 100 or fewer employees that do not have another retirement plan.

If the idea of an easy to manage retirement plan appeals to you, but you want your employees to be able to contribute to their own accounts, take a look at the SIMPLE IRA.

The SIMPLE IRA allows all eligible employees, including you, to contribute up to the lesser of $14,000 or 100% of their compensation in 2022. Individuals who are age 50 or older can generally contribute up to an additional $3,000 per year as a catch-up contribution.

Employer contributions are required every year. Your company can either match each employee's contributions dollar-for-dollar, up to 3% of their compensation, or it can contribute 2% of each eligible employee's compensation.

SIMPLE IRAs do not require nondiscrimination testing and annual government filings, making them a good choice for small businesses that want to keep retirement plan administration to a minimum.

401(k) Plan

- Greater flexibility in plan design.
- High contribution limits.
- Allows larger employee contributions than a SIMPLE IRA plan.

401(k) plans typically offer features that you cannot get with an IRA plan. For example, certain 401(k) plans can be set up so that employer contributions vest over time, which can help you retain employees. Participant loans may be an option for employees. And employees can generally contribute more to a 401(k) plan than to other

types of plans.

In most types of 401(k) plans, eligible employees can contribute up to $20,500 of their compensation in 2022. And if they are age 50 or older, they can generally contribute up to an additional $6,500 as a catch-up contribution.

Employers can also generally contribute to their employees' accounts by matching employee contributions or by making contributions for all eligible employees.

Among the various types of 401(k) plans, the traditional 401(k) plan offers employers the most flexibility in plan design, including the ability to have employer contributions vest over time. Annual testing is required to ensure that the plan does not discriminate in favor of highly compensated employees.

You can eliminate the need for nondiscrimination testing by choosing a safe harbor 401(k) plan. This type of plan avoids testing by requiring the company to make a certain level of employer contributions each year that must be immediately 100% vested.

Another type of plan, the SIMPLE 401(k), also eliminates the need for nondiscrimination testing. Available to businesses with 100 or fewer employees that do not have another retirement plan, the SIMPLE 401(k) combines some of the ease of a SIMPLE IRA with some features of a 401(k) plan, such as participant loans and hardship withdrawals. The contribution limits for employees and employers are the same as for the SIMPLE IRA.

Individual or Solo 401(k) Plan

- High contribution limits.
- Available only to self-employed individuals and owner-only businesses.
- Generally easier to manage than a traditional 401(k) plan with employees.

An individual 401(k) plan, also known as a solo 401(k), is an option for self-employed individuals and owners of businesses without employees, other than a spouse.

Like other types of 401(k) plans, individual 401(k) plans are funded by both employee and employer contributions. As the employee, you can contribute up to $20,500 of your compensation, or up to $27,000 if you are age 50 or older. As the employer, your business can contribute up to 25% of your compensation[1]. The total contributions to your account for 2022 cannot exceed $61,000, or $67,500 if you are age 50 or older and make catch-up contributions.

Individual 401(k) plans are generally easier to manage than traditional 401(k) plans that cover businesses with employees. Nondiscrimination testing is not required as long as you do not have employees, and you generally do not need to file an annual report with the IRS until assets in the plan exceed $250,000.

Please seek specific advice from your TBC Advisor regarding starting a retirement plan for your business.

Citations

[1] If you are self-employed, your compensation is your net earnings from self-employment, which is calculated using a special computation.

With a traditional retirement account, pre-tax contributions and earnings are taxed as ordinary income when withdrawn from the account. Withdrawals before age 59½ are also generally subject to a 10% early withdrawal tax penalty (25% if the withdrawal is made in the first two years of participating in a SIMPLE IRA plan) unless an exception to the penalty applies.

With a Roth retirement account, withdrawals are tax-free and penalty-free if made after age 59½ and after the account has been open for five years.

This article reflects the federal laws in place on March 1, 2022.

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NEW NYS TAX CREDIT FOR HOMEOWNERS. DO YOU QUALIFY?

New York State has a NEW property tax credit for homeowners who make less than $250,000.

To Qualify:

- You must be a NYS resident for the full year. In addition, the home must be your primary residence and you must have lived in the home at least 183 days during the year.
- The credit applies to all property taxes you pay for schools, counties, villages and towns.
- To be entitled to the credit, the amount of property taxes that you pay must exceed 6% of your income. This amount is referred to as your Excess Property Taxes. Income is defined as your adjusted gross income with some additional modifications for losses etc.
- If you qualify, the credit can be taken even if you do not itemize your deductions.

Amount of Credit:

- If your income is less than $75,000, the credit will be 14% of the "Excess Property Taxes" paid.
- If your income is more that $75,000 but less than $250,000, there is a two-pronged calculation to determine the credit. Due to the higher income, the credit will be a little less.
- The allowable credit that can be taken on your return will be a minimum of $250 with a maximum allowable credit of $350. If the calculated amount of the credit is less than $250, the allowable credit will be zero.

How is the Credit Reported?

- There is no application to complete.
- The credit will be reported on your 2021 tax return.
- The credit is in addition to the School Tax Relief or STAR.
- The credit will remain in place again for tax years 2022 and 2023.

THINKING ABOUT YOUR 2021 PERSONAL TAX RETURN AND ITEMS NEEDED TO FILE?

These are a few items to consider when gathering your personal income tax data for the upcoming tax year:

1. **Economic Impact Payment**

The IRS issued a third round of stimulus checks starting March 12, 2021. Be sure to let your tax preparer know how much you received. Payments were $1,400 for each individual plus an additional $1,400 for each dependent in a family.

Did you receive less than these amounts? Payments were phased out for joint filers with adjusted gross incomes (AGI) above $150,000, head-of-household filers with an AGI above $112,500, and single filers with an AGI above $75,000. In fact, third-round stimulus checks were reduced to zero if your AGI was above $160,000 (joint filers), $120,000 (head-of-household), or $80,000 (singles).

Did you have a loved one pass away during 2021? For those individuals who have died on or after January 1, 2021 are still eligible to receive the third stimulus check. If a check was not received, the deceased taxpayer

may be entitled to claim a recovery rebate credit on their final 1040 return.

Don't recall if you received a payment? You can check the status of your third Economic Stimulus check by going to the IRS website and logging into "Get My Payment". You will need to enter your SSN, date of birth, street address and zip code. The IRS will indicate if a payment was issued. If by direct deposit, the website will indicate the date of the deposit and the bank account number.

2. **Advanced Child Tax Credit Payments**

On a monthly basis from July 15, 2021 – December 15, 2021, the IRS issued payments to eligible individuals as an advanced payment of the child tax credit that would have been taken on the 2021 tax return. The amount allowed as a Child Tax Credit on the 2021 return will be offset by the amount of payments received during the last half of the year.

Early in 2022, the IRS will issue Letter 6419 documenting any advance payments issued to families during 2021 and the number of qualifying children used to calculate the payments. Be sure to provide this letter to your tax preparer as this will be important information that they will need.

Individuals can also access the IRS Portal and create an account to view the amount of payments received during the year.

3. **IRA Distribution and Repayment**

During 2020 "qualified individuals" affected by Covid-19 were permitted to withdraw up to $100,000 from an IRA or an employer plan such as a 401K or 403b without incurring penalties. Individuals will still need to pay income tax on the distribution but could have elected on the 2020 return to spread the distributions over three years reporting 1/3 of the amount in tax years 2020, 2021 and 2022.

The taxpayer also has the opportunity to "recontribute" some or all of the Covid related distributions to their retirement plan at any time during the 3 year period if they choose. The amounts repaid will not be subject to tax. Note the 3 year period for recontributions begins the date after the Covid distribution and ends on the third anniversary of this day.

Note the amount taxable will be reduced by amounts repaid by the taxpayer. Be sure to advise your tax preparer of any amounts repaid during tax year 2021, including the date of the payments.

4. **Charitable Contributions**

Normally individuals who claim the standard deduction can-not claim deductions for the amount of charitable contributions made during the year. For 2021, individuals can claim a deduction up to $300 for cash contributions made to a qualifying organization. This amount increases to $600 for married individuals filing a joint return. Cash contributions include those made by check, credit card or debit card.

5. **Virtual Currency**

Buying and selling cryptocurrency is taxable as the IRS views this as property much like stocks and not currency, which means you must report any capital gains and losses when disposing of it.

If you have cryptocurrency:

- Did you sell crypto currency for cash
- Pay for goods or services
- Buy one crypto with another crypto
- Receive mined crypto
- Was paid in crypto or by airdrop
- Received crypto rewards

You will need records of the fair market value of your cryptocurrency when you mined it or when you bought it,

as well as records of the fair market value when it was sold, used to purchase goods or services or when it was exchanged for another cryptocurrency.

If you are becoming more involved in cryptocurrency, there are several cryptocurrency portfolio trackers that allow you to track the total amount and value of your cryptocurrencies across all wallets, exchanges, platforms and blockchains in real time. Some popular Crypto Portfolio tracking tools include Blockfolio, Delta, Coinstats, Lunchmoney and Altpocket

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REAL ESTATE AND THE CURRENT LOCAL ECONOMY

Real estate in the Capital Region is booming, rental prices are increasing and homes are selling at record highs. The local market inventory levels are still low which is resulting in local homes and apartments seeing an increase in value. Depending on your living situation it may be a great opportunity to take advantage of the skyrocketing market. Selling your home in the current environment could see a nice profit for you that may end up being tax free if your gain is below the allowed limits (more on this below). Those gains could go a long way towards a new home or to pay for rent if you want to wait for the market to cool down a bit.

Rising costs have yet to stabilize for Homebuilders which is causing them to have to pass these increases on to the consumers, thus increasing the cost of building a new home. It has also slowed the production as these cost increases are due to a shortage of needed supplies. If you are planning to build your new home, you will want to plan for these increased costs and the time delays in advance. This can help you be more confident that you will have the house construction completed and all costs covered by the date that you were looking to move in.

There are a few things to keep in mind when selling your home. The IRS allows you to exclude a gain from your taxes when you sell your main home. To qualify for the maximum exclusion of gain ($250,000 for single filers and $500,000 if married filing jointly), you must meet the Eligibility test. If you owned your home for a least 2 years of the previous 5 years leading up to the date of sale, you meet the ownership requirement and qualify for the exclusion. However, if you already sold a home in the past 24-month leading up to the sale of your current home you may be ineligible to exclude the gain on your current home from your taxes.

If you have any questions, or would like to discuss your specific situation, please contact your trusted TBC advisor.

By: Scott A. Kind, CPA, Shareholder

LIFO IMPACTS ON AUTO DEALERS

These last 2 years have certainly been a rollercoaster ride for most automobile dealers. From the fear and uncertainties caused by shutdowns at the start of the pandemic, to labor shortages, to parts inventory delays and shortages, to government assistance programs, to record high used vehicle prices, to new vehicle inventory supply issues caused by the microchip shortage, all the way to record profits and cash flow surpluses. It has certainly been… to say the least.

Most dealerships are still dealing with new and used vehicle supply issues, and record low vehicle inventory levels. Those dealers using the Last-In, First-out (LIFO) method to account for their inventory valuation, a method generally used to defer taxes, may be in for an unexpected tax liability caused by the significant reduction of their vehicle inventory levels. The sharp decrease of inventory could force LIFO reserves that were previously deferred, to be recaptured, therefore increasing taxable income and increasing the dealership’s tax liability. For

some dealerships this unexpected tax liability could be substantial. Consider a dealership with a $1 million LIFO reserve, normally carrying 100 vehicles in inventory, is currently only carrying 10 vehicles in inventory due to supply shortages. This dealership will likely have to recapture a large majority of their LIFO reserve, which could result in upwards of $300,000 – $400,000, or more, of additional tax liability.

What options do dealers using the LIFO method have to help combat this potential tax burden? One option is to do nothing, record the LIFO recapture as taxable income, pay the tax, and move on. This may be the best option if your inventory decrease doesn't cause a significant LIFO recapture amount.

A second option could be to change to another acceptable LIFO calculation method allowed under existing LIFO provisions. There are four methods allowable for automobile dealerships; the General Dollar-Value LIFO Method, the Simplified Dollar-Value LIFO Method, the Inventory Price Index Computation Method, and the Alternative LIFO Method (most commonly used method by dealerships). A dealership could also choose a LIFO method that also allows used vehicles and parts to be included in the inventory valuation. A change in the LIFO calculation method being used, and including additional inventory types in the LIFO calculation, could help offset the tax liability caused by the LIFO recapture. This option would require a Form 3115 be filed, and the new method must be kept for at least 5 years.

Another option is to elect out of the LIFO method by filing Form 3115 with the entity's income tax return. This option requires that the entire LIFO reserve be recaptured, however the recaptured income would be spread over 4 years, allowing the tax liability to be paid over a 4 year period, potentially at lower tax rates. This could be a welcome option when faced with having to pay that tax liability all in one year. If the dealership choses this option and elects out of the LIFO method, it cannot re-elect to use the LIFO method again for at least 5 years. There is also uncertainty with how future tax law or tax rate changes could effect this decision. If Congress were to drastically increase tax rates, or limit the QBI deduction for pass-through entities, it could negatively affect the outcome of this option to elect out of the LIFO method by increasing the tax liability on the deferred portion of the LIFO recapture.

Could there be tax relief on the way? There has been recent activity that suggests that there could be the possibility of some tax relief coming from Congress or the U.S. Treasury Department. Organizations such as National Automobile Dealers Association (NADA) have been lobbying for the U.S. Treasury Department, U.S. Senators, and U.S. Congressmen to take action to provide relief for those impacted by unexpected tax liabilities caused by LIFO recapture. However, there is nothing certain at the time of writing this article.

It's important to keep an eye on what's happening in Washington, and to consult with a knowledgeable tax and accounting professional when determining which method or options are best for your dealership. If you have any questions, or need further information, please contact your trusted TBC advisor.

By: Mike Cesternino, CPA, Partner

TAX PLANNING FOR BUSINESSES

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the cash basis of accounting. Businesses with average annual gross receipts (3-year average) under $26 million can now qualify to use the cash method of accounting. Is the cash method right for your business?

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Qualified Improvement Property

Qualified improvement property (QIP) is an improvement made to the interior of an existing nonresidential building (enlargements, elevators/escalators, or internal structural framework do not qualify). The Coronavirus Aid, Relief and Economic Security Act (CARES Act) shortened the depreciable life of QIP from 39 years to 15 years. This change is retroactive to property placed in service in 2018. QIP is also eligible for immediate deduction by electing to take 100% bonus depreciation or a section 179 deduction in the year the property is placed in service. However, New York (and many other states) have decoupled from the CARES Act, and the depreciable life for QIP in New York remains at 39 years.

Bonus Depreciation

Bonus depreciation allows for the accelerated depreciation of capitalized assets with depreciable lives of 20 years or less. The allowable bonus depreciation is typically 100% of the cost of the property, with the exception of certain passenger automobiles that are subject to dollar limits on a per vehicle basis. Placing bonus-eligible assets in service before year end can be an effective way to reduce your Federal tax liability. Caution: New York, and many other states, don't accept bonus depreciation. Bonus depreciation claimed on the Federal return must be added back in full to NY taxable income, and the bonus eligible property is depreciated over the normal recovery period.

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For 2021, the expensing limit is $1,050,000 and is generally available for most depreciable property (other than buildings) and off the shelf computer software.

Research Credit

The Research and Development (R&D) Tax Credit remains one of the best opportunities for businesses to substantially reduce their tax liability. Large and small companies from a wide-range of industries can qualify for federal and state tax savings. The R&D Tax Credit may be claimed by taxpaying businesses that develop, design or improve products, processes, formulas or software. Research activities no longer have to be new to the industry; instead activities need to be new to the company – a standard that is much more favorable to taxpayers.

Planning with Year-End Bonuses

If a business is having a successful year consider making bonuses to employees. An accrual basis taxpayer can accrue bonuses, and get a deduction in 2021 as long as they make the payments by March 15, 2022. Please note that bonuses accrued to owners do not qualify.

If an owner believes they are underpaid for estimated taxes, a year-end bonus paid by December 31, 2021 can be used to withhold additional federal and state taxes.

Another bonus strategy relates to an existing C corporation that is making an election to be treated as an S corporation. An existing C corporation that makes this election is subject to built-in-gains (BIG) tax for a 60-month period after electing S status. Any asset sold during the 60-month period that has a BIG attached is subject to C

corporation tax rates. An accrued bonus to an owner that is paid in the following year is considered a built-in-loss that can be used to reduce BIG tax in the future.

Other Miscellaneous items

Consider moving income into 2021 from 2022 if you anticipate a small net operating loss this year. By creating a small amount of net income, a C corporation can base their 2022 estimated tax payments on the 2021 safe-harbor tax rather than calculating estimates on a quarterly basis.

If you have a passive activity with suspended losses, consider disposing of the activity to free up those losses.

Pending legislation may adjust the state and local tax (SALT) limit for individuals. Keep in mind that New York State recently created a workaround – the Pass Through Entity Tax (PTET) credit. Please see “NY PTET Tax – Update” posted on August 27, 2021 to the TBC Web page.

These are just a few planning ideas to consider for 2021 or 2022 and are general in nature. If you have any questions or need further information please contact your TBC advisor.