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THE GREAT 2018 TAX SEASON

With Congress' overhaul of the IRS rules, almost no one can ignore tax planning

BY **STEVEN YODER**

Pity the tax lawyer or accountant this filing season — December's revamp of the tax code has everyone scrambling. And that means tax specialists are spending their days on the phone.

"I'm not getting any work done," says Christopher Karachale, tax law attorney and partner at Hanson Bridgett, which has a Sacramento office. "All I'm doing is fielding questions about the new tax law."

Those calling Karachale for advice have good reason. The most substantial rewrite of the tax rules in more than 30 years means filers need to apply a fresh look at their tax situations. That may mean getting professional help to take advantage of new provisions that could cut their bill — or to minimize pain if they're facing an increase. "One of our big exercises in January for the companies that we advise is adjusting their projections based on the tax law," says James Markham, global tax middle market leader at EY in Sacramento.

Financial decisions this year should be shaped in part by the rule changes. The tax overhaul has many moving parts, but area tax experts took a crack at identifying five of the most important. So before rolling the dice in the game of taxes, be prepared for a few new key spots.

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-Christopher Karachale, tax law attorney and partner, Hanson Bridgett

Incorporation Corner. Entrepreneurs once tried to avoid incorporating to get around the 35-percent tax bite on business income. Now that it's dropped 14 percentage points, startups might consider forming a C corporation, the easiest way to take advantage of the new business-friendly rate, says Karachale. But the decision requires careful projections: C corporations are still subject to so-called "double taxation" — the corporation pays taxes on its profits, but the corporate shareholders also pay taxes on any dividends they get. After all of that, your rate may end up being close to what you'd pay without incorporating, says Linda Geery, vice president and CPA at Gilbert Associates. "It might not be the no-brainer that people think."

Pass-Through Pass. The treatment of pass-throughs under the reform is "mind-bogglingly complex" but worth understanding, says Karachale. Those who reclassify themselves as contractors rather than employees — by setting up a structure like an S corporation, partnership, or sole proprietorship — might be able to take a huge 20-percent deduction against their qualified business income.

But guardrails have been set up around the rule: If you're in one of several types of specified service businesses, you're excluded from the pass-through deduction. Those include health, law, engineering, accounting, consulting, or any trade or business where the "principal asset" is the reputation or skill of one or more of its employees or owners. Just to complicate the picture, there's an exception to that exception: If you're in one of those businesses but make less than $157,500 single and $315,000 married, you still may qualify.

So should you ask your employer to take you off the payroll and start remunerating you as a contractor so you can get the pass-through deduction? Maybe, but that means you'll also have to begin paying for your own health insurance and carry all of the other overhead costs of owning a business, Karachale says.

Depreciation Dock. If you've been thinking about big capital purchases, now's the time. Under the latest changes to section 179 of the code, you can deduct the full amount of equipment and many other capital purchases in the tax year that purchases are made, instead of depreciating them out over a number of years. Say you buy new computers and software for the office in 2018. At least through 2022, you'll be able to deduct the full bill (up to a cap of $1 million) on your return as an ordinary expense, instead of deducting only a portion under the normal depreciation rules.

But just because you can doesn't mean you should, says David Du Val, vice president and chief customer advocacy officer at TaxAudit in Folsom, a tax audit defense membership service. If you're in the unique situation of having a spike in business income in a single year, then you should take advantage of the new section 179 expensing, he says. But if not, taking all of your depreciation up front means you'll have none left to offset your business income in future banner years, meaning you'll face higher taxes down the road, he says.

Entertainment Alley. Starting in 2018, business-related entertainment expenses are no longer deductible. Du Val says that will especially affect salespeople: No more buying Kings tickets for clients and writing off the cost.

It will impact managers too: If you pay your staffs' way to the game, you have to report the value of their tickets as ordinary income on their W-2s. But filers will be making some needle-fine distinctions, since legitimate team building activities can still be deducted as ordinary and necessary expenses, Du Val says.

Interest Limitation Island. Markham of EY points out that the new limit on deducting interest on corporate debt will affect companies that use lots of leverage in acquisitions. Beginning in 2018, companies will still be able to deduct that interest. But the amount is capped at 30 percent of their earnings. That provision is designed to discourage overborrowing. So companies that do leverage buyouts, for example, will have to change their financial metrics since they'll face a bigger tax hit, says Markham.

Even the changes to the individual filer sections of the code could impact California businesses. Karachale says "California is getting whacked hard" by the $10,000 cap on deducting state and local property, sales and income taxes. Markham says that could make recruiting employees from out of state more challenging.

Should businesses get a tax consultation? Those companies that are making money need to be getting with a tax advisor, says Markham. Geery, of Gilbert Associates, says there are also online calculators out there to help those who don't. But Du Val is skeptical about projections — the code has so many moving parts that you'll only know with certainty the impact of the new law on your tax situation when you file your return in 2019 and compare it to what you paid in 2018, he says. ■

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