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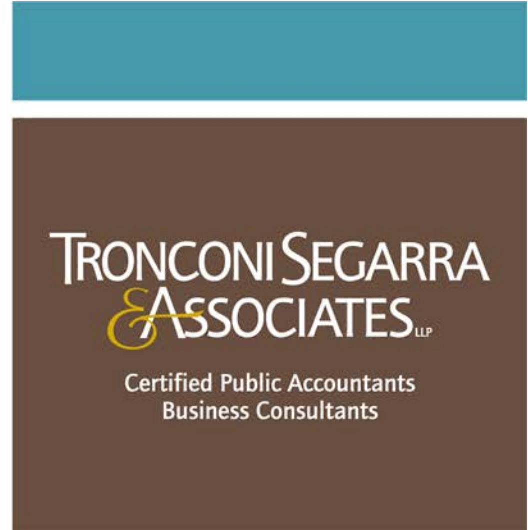

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but he must take it because conscience tells him it is right."

Martin Luther King, Jr., A Testament of Hope: The Essential Writings and Speeches.

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Weighing In on Tax Reform

In our last newsletter (Dec. 2016), we wrote how it was anyone's guess what would happen with tax reform once President Trump took office, given the political climate. Seven months later, the uncertainty regarding any future tax reform still exists, including the repeal/replacement of the Affordable Care Act. It appears that compromise on all sides will be needed for true tax reform legislation to occur.

As we wait for "transformational tax reform" to occur in 2017, as Speaker Paul Ryan said in June, there are several stand-alone, bipartisian tax bills that have been introduced in Congress which could see their way to passage:

- The Invent and Manufacture in America Bill would enhance the research tax credit. Generally, the bill would increase the value of the credit by up to 25 percent for qualified research activities.
- The Graduate Student Savings Bill that would generally allow funds from a student's stipend or fellowship to be deposited into an individual retirement account (IRA).
- The Adoption Tax Credit Refundability Act that would generally enhance the adoption tax credit.

Additionally, a group of House Democrats and Republicans wrote to Treasury Secretary Mnuchin in June asking him to preserve the state and local sales tax deduction in any tax reform plan.

Assuming that tax reform legislation will be passed by Congress and signed into law by the President, your tax advisors at Tronconi Segarra & Associates will be ready to assist you in understanding the impact it may have on you and your business.

BONUS DEPRECIATION PHASE OUT

Contributed by Andy Moon, CPA, Senior Tax Manager

As many business owners know, Congress extended the ability to claim bonus depreciation for certain property acquired and placed in service between 2015 and 2019.

What many business owners don't know is that **the most tax beneficial part of this rule expires at the end of 2017!**

As part of the extension, Congress added a phase-out to the bonus depreciation that businesses are allowed to take. Currently, a business can take 50% of the cost of certain property acquired before the end of 2017 as a tax deduction.

However, beginning on January 1, 2018, that percentage is reduced to 40%. In 2019, it is reduced even further to 30%; and then it is gone completely beginning January 1, 2020!

Any businesses planning significant capital asset purchases or construction projects should consider these phase-outs in their planning. Being able to write-off up to 50% of the cost of the asset or project could significantly change a business' decision to purchase or start a large project.

Please contact me or your Tronconi Segarra & Associates tax advisor to discuss how we can help you plan for your future today.

amoon@tsacpa.com

Satisfying Loyal Donors With a Mid-Year Financial Check-Up

A recent article on the website Fundraisingip.com extolled the virtues of not-for-profit organizations performing a mid-year fiscal check-up. In addition to ensuring that an organization is on-track to meet goals, deliver promised services and programs and end the year in a positive position, it also represents an opportunity for organizations to solidify its bonds with donors by providing them with a mid-year "organization fiscal health report card," thereby reassuring donors that their contributions are being used according to the donors' wishes, being used efficiently and responsibly, and are bringing about the desired change or effect that is at the heart of the reason why donors make contributions in the first place. Communicating such information and being highly transparent about the organization encourages greater donor loyalty and plants seeds for a positive response from future donation requests.

At mid-year, the article recommends measuring whether the year's planning and strategizing have paid off so far. Even more significant, it's a good time to determine what has been working and what should be tweaked for the remainder of the year.

For example, take a look at cash flow. Have fundraising goals been met so far? Fundraising, crucial to almost every not-for-profit organization, should be broken down into specific internal projects, events and tasks, with clear lines of responsibility and accountability established and communicated up front. Having specific people responsible for each task makes tracking fundraising progress easier. The article states that over 70% of all donations collected by not-for-profit organizations come from individuals; so it's easy to see why having good tracking systems for donation requests, follow-up and eventual recording of donations is important.

Another beneficial mid-year check-up should be a review of your governance activities. Make sure required audits are up-to-date and that you are planning well in advance for the next audit(s). Tax filings should be done in a timely manner, as many prospective donors may want to examine them as they contemplate a donation. Also beneficial at this time is a review of internal controls to safeguard the organization's assets and maintain proper policies and procedures.

If you would like assistance with your mid-year check-up, or assistance setting up valuable tracking and analytics for your fundraising efforts, please contact your Tronconi Segarra & Associates advisor for more information.

Investing in Canadian Real Estate? Things to Consider Before You Buy That Beachfront Property.

Contributed by David J. Lever, CPA, Tax Manager

While it is quite common for our Canadian friends to come down to the southern tier and Ellicottville area during the winter months to enjoy our skiing, many Americans like to return the favor and head north to enjoy the summer. Some may consider purchasing a cottage or property on the water and question whether there are any tax implications to an investment in Canada.

If the property is being used for personal purposes only, the purchase of the property does not create any income tax filing requirement in Canada. Any property taxes paid in Canada may be deductible on the person's U.S. return. When the property is eventually sold, Canada will subject the transaction to 15% withholding on the sales price to compel the U.S. owner to file a Canadian non-resident tax return. While the gain on the property will be subject to Canadian non-resident taxes, the seller may apply to Canada Revenue Agency (CRA) for a reduction in the withholding amount by documenting the actual gain, or possibly showing that there is no gain on the property. It is important that the U.S. owner apply for this waiver up-front; otherwise, they may need to wait to file a Canadian return to recoup some, or all, of the withholdings.

If the vacation property is going to be rented when not used by the owner, additional income tax reporting and potential annual tax will become due to CRA. Even if the property is yielding a loss, it often makes sense to file a return and establish the losses to offset future income. Any expenses of the property would be limited to the rental activity portion and would not be deductible for the time personally used. In addition to reporting the rental activity in Canada, the rental activities will need to be reported on the lessor's U.S. income tax return as well; with any income tax paid to Canada potentially available to be taken as a foreign tax credit.

One of the most common questions I'm asked in these situations is whether the U.S. investor should put the property in some type of U.S. or Canadian entity rather than own the property directly to alleviate liability concerns. More often than not, the involvement of an entity causes more compliance burden and cost than any benefit and possibly unwanted tax consequences. Typically, liability concerns can be addressed by purchasing a higher level of insurance on the property. However, ownership matters should be evaluated on a case-by-case basis by the investor's tax advisor.

A final consideration is the use of foreign banks or financial institutions by the U.S. vacationer/ owner or lessor. A U.S. investor in a non-U.S. financial account must report this financial interest on their U.S. income tax return. Furthermore, if the U.S. investor holds more than $10,000 USD in a foreign account (or has signature authority over an account) or a combination of accounts at any point during the year, the U.S. investor must report this to the U.S. Treasury in an annual report called a Report of Foreign Bank Accounts, commonly called an FBAR. While this report has no tax or filing fee associated with it, failure to file the report by the October 15th due date of the subsequent calendar year can result in penalties starting at $10,000 USD which may escalate up to half of the balance of the account.

Please contact me if I can be of assistance to you in this area. dlever@tsacpa.com

OUR VALUATION ASSOCIATES ARE READY TO SERVE YOU!

If you are in need of a valuation for your business or a personal matter, contact Jim Segarra at 633-1373 or jsegarra@tsacpa.com to schedule a complimentary initial meeting.

Centralized Partnership Audit Rules Finally Released

The much anticipated regulations (REG-136118-15) implementing the new centralized partnership audit regime under the Bipartisan Budget Act of 2015 (BBA) have finally been released. The BBA regime replaces the current TEFRA *(Tax Equity and Fiscal Responsibility Act of 1982)* procedures beginning for 2018 tax year audits, with an earlier "opt-in" for electing partnerships. Originally issued on January 19, 2017 but delayed by a January 20, 2017 White House regulatory freeze, these re-proposed regulations carry with them much of the same criticism leveled against them back in January, as well as several modifications. Most importantly, their reach will impact virtually all partnerships.

Under the proposed regulations, to which Congress left many details to be filled in, the new audit regime covers any adjustment to items of income, gain, loss, deduction or credit of a partnership and any partner's distributive share of those adjusted items. Further, any income tax resulting from an adjustment to items under the centralized partnership audit regime is addressed and collected at the partnership level. The applicability of any penalty, in addition to tax, or additional amount that relates to an adjustment to any such item or share, is also determined at the partnership level.

Although perhaps streamlined and eventually destined to simplify partnership audits for the IRS, the new centralized audit regime may prove more complicated in several respects for many partnerships. Of immediate concern for most partnerships, whether benefiting or not, is how to reflect this new centralized audit regime within partnership agreements, especially when some of the procedural issues within the new regime are yet to be ironed out. Issues for many partnerships that have either been generated or heightened by the new regulations include:

- Selecting a method of satisfying an imputed underpayment;
- Designating a representative;
- Allocating economic responsibility for an imputed underpayment among partners including situations in which partners' interests change between a reviewed year and the adjustment year; and
- Indemnifications between partnerships and partnership representatives, as well as among current partners and those who were partners during the tax year under audit.

Starting for tax year 2018, virtually all partnerships will be subject to the new partnership audit regime, unless an "election out" option is affirmatively elected. Only an eligible partnership may elect out of the centralized partnership audit regime. A partnership is an eligible partnership if it has 100 or fewer partners during the year and, if at all times during the tax year, all partners are eligible partners. A special rule applies to partnerships that have S corporation partners.

A partner's treatment of each item of income, gain, loss, deduction or credit attributable to a partnership must be consistent with the treatment of those items on the partnership return, including treatment with respect to the amount, timing and characterization of those items. Under the new rules, the IRS may assess and collect any underpayment of tax that results from adjusting a partner's inconsistently reported item to conform that item with the treatment on the partnership return as if the resulting underpayment of tax were on account of a mathematical or clerical error appearing on the partner's return. A partner may not request an abatement of that assessment.

The new regulations require a partnership representative, as well as provide rules describing the eligibility requirements for a partnership representative, the designation of the partnership representative, and the representative's authority. Actions by the partnership representative bind all the partners as far as the IRS is concerned. Indemnification agreements among partners may ameliorate some, but not all, of the liability triggered by this rule.

Generally, if a partnership adjustment results in an imputed underpayment, the partnership must pay the imputed underpayment in the adjustment year. The partnership may request modification with respect to an imputed underpayment only under the procedures described in the new rules.

In multi-tiered partnership arrangements, the new rules provide that a partnership may elect to "push out" adjustments to its reviewed year partners. If a partnership makes a valid election, the partnership is no longer liable for the imputed underpayment. Rather, the reviewed year partners of the partnership are liable for tax, penalties, additions to tax, and additional amounts, plus interest, after taking into account their share of the partnership adjustments determined in the final partnership adjustment (FPA). The new regulations provide rules for making the election, the requirements for partners to file statements with the IRS and furnish statements to reviewed year partners, and the computation of tax resulting from taking adjustments into account.

Partnership agreements that reflect the new partnership audit regime must especially consider the problems that may be created by partners that have withdrawn, and partnerships that have since dissolved, between the tax year being audited and the year in which a deficiency involving that tax year is to be resolved. Collection of prior-year taxes due from a former partner, especially as time lapses, becomes more difficult as a practical matter unless specific remedies are set forth in the partnership agreement. The partnership agreement might specify that if any partner withdraws and disposes of their interest, they must keep the partnership advised of their contact information until released by the partnership in writing.

If you have any questions about how your partnership may be impacted by these new rules, please contact your Tronconi Segarra & Associates tax advisor.