PAUL H. BURGESS, ATTORNEY-C.P.A.

525 SOUTH MAIN, SUITE 800/TULSA, OKLAHOMA 74103-4511 (918) 599-7755 VOL. 39 NOVEMBER 2016

Tax & Financial Newsletter from the "Power of the Dual View"

This Tax Newsletter lists several "low hanging fruit" tax strategies to consider prior to year-end. It first lists ***Business Tax Tips!*** followed with ***Individual & Investment Tax Tips!*** As with all tax planning, benefits can be limited by special rules, and unique circumstances, but in many cases, year-end fine-tuning can yield substantial savings. Feel free to contact our office for any questions you may have. We may also be reached by email at pburgess@barberbartz.com.

Business Tax Tips!

√ ***Year-end Business Asset Purchase:*** When a business purchases equipment and other types of business tangible personal property (not land and buildings) it is eligible for significant write-offs utilizing Bonus and/or §179 depreciation. Thus, consider year-end business purchase to reduce your taxes.

√ ***Bonus Depreciation Percentages:*** In 2016 and 2017 the bonus depreciation results in an extra 50% write-off of the asset cost. The percentage is 40% and 30% in 2018 and 2019 respectively. Bonus is scheduled to expire starting 2020.

√ ***§179 Expense Election:*** For 2016 a business can 100% expense *up to* $500,000 of eligible business assets. The deduction starts phasing out when a taxpayer purchases over $2,010,000 of equipment. For subsequent years the dollar thresholds increase for inflation.

√ ***More on Bonus and §179:*** (1) Bonus does not have a maximum fixed dollar limit, so it can create or increase an NOL; (2) §179 is limited to taxable income; (3) Used property is not eligible for Bonus; (4) New and used property are eligible for §179; (5) A small exception exists allowing §179 for certain leasehold, restaurant, and retail building costs and; (6) §179 can easily be revoked or amended in subsequent years allowing for "after the fact" tax savings.

√ ***Indian Depreciation is Expiring Starting in 2017:*** Indian deprecation has been especially beneficial for non-residential real property allowing a 22 year write-off versus 39 years. Thus, if you are planning on purchasing commercial real property soon, close prior to 2017 to write the building off over 22 years instead of 39.

√ ***Pre-Paid Expenses & the 12 Month Rule:*** A cash basis business can typically deduct any amounts paid for a right or benefit that does not extend beyond 12 months after the date of the payment. Thus, a business can pre-pay expenses in December 2016 that are for 2017. For example, a business could enter into a three year automobile lease in December for a one-time $18,000 payment and deduct one-third of that payment in 2016.

√ ***Tax Basis:*** Make sure you have tax basis in all your partnerships, LLCs, and S corporations to deduct any losses. Increasing your tax basis can be accomplished by several methods including loans and capital investments.

√ ***Active Participation:*** Step up your level of participation in partnerships, S corporations, or LLCs to qualify as an "active participant" for flow-through entities reporting losses.

√ ***Deduct Expiring Tax Credits:*** 2016 is the last year for many tax credits. Taxpayers may have unused tax credits that they won't be able to carryforward to 2017. For example, the Indian Employment Credit can be subject to several limitations curtailing its use. The credit is expiring in 2016. Thus, any unused credits can be deducted in 2016.

√ ***Business Losses:*** You are not in business to generate losses, but they do happen. This is a list of possible business loss deductions:

1. Business Bad Debts
2. Casualty and Theft losses
3. Capital Loss/Worthless Investments
4. Losses on the sale of Business Assets

Sometimes it can be difficult to ascertain what year a business or investment loss should be written off. The general rule is deduct the loss in the earliest year possible.

√ ***Payment by Check:*** Cash basis businesses can date checks before the end of the year and mail them right before January 1, 2017 to obtain a 2016 deduction.

√ ***Home Office Deduction:*** A home office deduction is a good deduction for small businesses or an employee working from home. Do not pass it up because of the perception it is "audit bait." A typical home office deduction is about $2,000 to $5,000. The IRS allows an easy "safe-harbor" home office deduction of up to $1,500 a year.

√ ***Pension Plans:*** Set up pension plans before year-end and fund those plans. In many cases if a plan is "set up" by December 31, you can contribute to the plan as late as October 15, 2017 for a 2016 tax deduction. A small employer can claim up to a $500 credit for administration costs for pension plans.

√ ***Deferring Income to 2017:*** Deferring income is an excellent method to slow down the cash required for taxes. Not only do current year taxes decrease, but, estimated tax payments for the following year can decrease. Some of the ways to defer income include: (1) electing the cash method of accounting versus the accrual method of accounting; (2) delay year-end billing to clients so that payments are not received until 2017; (3) take advantage of §1031 like-kind of exchanges for real estate; (4) electing the installment method of accounting; and, (5) delay selling gain assets until 2017.

Individual Tax Tips!

√ ***December W-2 Withholdings:*** Avoid underpayment of estimated tax payment penalties by increasing your withholdings from your December paychecks.

√ ***State Tax Payments:*** Consider paying in December 2016 your state estimated tax payment(s) that is (are) due in January 2017 for a 2016 deduction. In fact, paying all your 2016 state liability by the year-end may be beneficial. This strategy can be especially advantageous if you have a large 2016 increase in income. Be careful though. At times phase out rules and the alternative minimum tax may mitigate the advantages of paying state income taxes early.

√ ***Maximize Pension & IRA Contributions:*** Increase your retirement plan contributions to take advantage of the maximum write-offs. For 2016: (1) the §401(k) contribution limit is $18,000, and if age 50+ an additional $6,000 is allowable; (2) the Simple Plan limits are $12,500, $3,000 respectively; (3) the IRA limits are $5,500 and $1,000 respectively; and (4) and be sure to maximize your contributions prior to year-end to take advantage of any employer matching.

√ ***Sale of Loss Entities:*** Dispose of your interests in those flow-through entities in which you have "suspended" loss carryforwards.

√ ***Accelerating Income into 2016:*** If you are expecting a higher tax bracket next year or are in an unusually low bracket this year, consider accelerating income. Acceleration methods include: (1) selling gain assets before year-end; (2) taking distributions from pension plans; (3) converting a Roth IRA to a Traditional IRA; (4) electing out of the installment method of accounting; (7) settling lawsuits and insurance claims prior to year-end; and, (6) elect slower depreciation methods.

√ ***Charitable Contributions:*** Consider gifting appreciated property, typically publicly traded stock, to a charitable organization for a deduction equal to its fair market value without having to report the gain. Also, if you are short on cash, a 2016 charitable tax deduction is possible by charging the contribution on a credit card and paying for it in 2017.

√ ***Maximize your Non-Cash Charitable Contributions:*** See our October 2016 Newsletter on how to maximize tax savings for donations of household goods.

√ ***Single and Head of Household:*** If you are single and assist your parents financially, make sure you meet the support level test to file head of household instead of single.

√ ***Achieving a Better Life Experience (ABLE) Accounts:*** This is a relatively new type of savings account for individuals with disabilities and their families. For 2016, taxpayers can contribute up to $14,000. Distributions are tax-free if used to pay the beneficiary's qualified disability expenses.

√ ***Oklahoma Taxes:*** A good tax advisor pays close attention to Oklahoma state income taxes to make sure all the state tax benefits are claimed. Oklahoma has extensive state tax breaks that are not applicable to a federal return.

√ ***Lower College Tuition by 5%:*** Take advantage of the Oklahoma §529 plans now by contributing to the plan in December, 2016 for January, 2017 college costs.

Investment Tax Tips!

√ ***Short-Term vs. Long-Term Capital Gains:*** Capital gains on property held one year or less (ST) are taxed as high as 50%. If held over a year (LT) capital gains are taxed at about half as much. For taxpayers not in the highest tax brackets, the tax rate for LT capital gains can be as low as zero!

√ ***Defer the Sale:*** If you have a borderline holding period, consider holding the asset a little longer than a year to take advantage of the favorable LT capital gains rates.

√ ***Offset Gains*****:** Consider selling capital assets that will generate a loss to offset any capital gains recognized earlier in the year. But, be careful not to waste the benefits of LT capital gains with ST capital losses.

√ ***Avoid Fluctuations:*** Realizing net capital gains in 2016 and then suffering net capital losses in 2017 increases the probability of wasting deductions. Thus, a good tax strategy is to try to realize stock losses in years with stock gains.

√ ***Sell the Loss Stock and Buy it Back:*** If you have realized capital gains during 2016 and loss positions at year end, sell the underwater stocks, wait 31+ days, and buy the stock back in January 2017.

√ ***Dividend Taxes:*** Most stock dividends are taxed at LT preferential rates. Thus, dividend paying stocks, and those stocks held in mutual funds, are tax advantageous investments.

√ ***Oklahoma Capital Gain Exclusion:*** If you have appreciated Oklahoma real property or own stock, partnership interest or LLC membership interests in companies that are located primarily in Oklahoma, the capital gain, under many circumstances, can be totally excluded from Oklahoma taxation.

√ ***Gift Appreciated Stock:*** One of the best tax savings strategies is for a parent to gift appreciated securities to their children. For example, suppose a parent owns stock worth $100,000 that they paid $40,000 for and it is time to sell the stock and realize the $60,000 LT capital gain. Typically the parent is in a high tax bracket and would pay about $15,000+ in income taxes. A stock gift to an adult child in a lower bracket, in many instances, can reduce the taxes to zero.

√ ***Retirement Account or Personal Investment?*** For three reasons, it is more tax efficient to hold stocks as personal investments (non-retirement accounts) and place interest bearing investments (bonds) in your retirement plans.

1. Investments that generate interest income are highly taxed. But, if those investments are held in a pension plan or IRA, income taxes are not due on the interest income.

2. Conversely, stocks held for growth (and even for dividends) are lightly taxed. Thus, hold growth stock investments in personal accounts.

3. Distributions from pension plans are typically subject to ordinary income taxes. If your pension plan has increased primarily from appreciated stocks, then in effect, the preferential tax treatment for capital gains has been lost upon a distribution.