Year End Tax Planning Considerations in Light of Tax Reform

By Donald Johnston and Alexandra Palmer

Much has been published to date in discussion of the various attributes of the House and Senate tax reform legislation bills. While the conversation is predominantly forward-looking, given that many of the changes will only impact the 2018 tax year and beyond, it is important to be aware, in these final few weeks of December, of the proposed changes that could, or maybe should, impact your 2017 tax year decisions prior to year end.

To illustrate the importance of considering the points that will be discussed below, let us examine two example taxpayers and the potential differences that may exist between their 2017 and 2018 tax positions.

Joe and Jean Smith, a couple who files married filing jointly, have historically used the itemized deduction (rather than the standard deduction) when filing their personal income tax return. Their Schedule A typically appears as follows:

State and Local Income Taxes	$ 10,500
Real Estate Taxes	6,000
Home Mortgage Interest	5,200
Charitable Contributions	6,800
	$ 28,500

Under the new parameters of the Tax Cuts and Jobs Act, Joe and Jean could have many of their previously deductible expenses limited or disallowed in tax year 2018. With everything else remaining the same, their 2018 itemized deductions would include only $6,000 of real estate taxes, home mortgage interest of $5,200, and charitable contributions of $6,800 for a total itemized deduction of $18,000. Assuming tax reform happens, it would be more beneficial for them to take the new $24,000 standard deduction for taxpayers whose status is married filing jointly. The proposed legislation would afford them no benefit from the state and local taxes they paid during the 2018 tax year.

In the discussion that follows, we will use the information presented in approved Senate and House tax reform bills (prior to any changes made in conference committee) as the basis for our positions and recommendations. The full text of each of the bills (H.R.1) can be found at the following links:

Approved Senate Bill   Approved House Bill

State and Local Taxes

What To Consider:

- Do you expect to take the itemized deduction in 2017? Will that change for 2018?
- Do you expect to be in AMT in 2017?

As we approach the deadline for fourth quarter individual income tax estimated payments, considering the above questions will help you determine whether or not it would be better for your tax position to make such state and local tax payments in December 2017 or January 2018.

For those individuals who will itemize on their 2017 federal income tax returns, it is important to ensure that those payments are made in December 2017. In this way, you may get a deduction on your 2017 return, but you will not be able to take such a deduction on your 2018 return. For those who expect to find themselves in AMT, the decision is less important given that the deduction for state and local taxes paid is eliminated when in AMT regardless of the year they are paid.

In addition to state and local income taxes, determine whether or not you owe any delinquent property or real estate taxes that could be paid in December 2017 and deducted on your 2017 Schedule A. Given the number of deductions that are likely to be eliminated in 2018, the goal should be to pull as many supportable deductions onto your 2017 return as possible. In short, it will generally be advisable to pay your state and local taxes before the end of the year to ensure that you at least get some deduction for them on your 2017 return. If you are expecting a state or local tax payment that would be due with your return in April, you should consider making that payment now so that it can be deducted on your 2017 return.

Charitable Contributions

What To Consider:

- Are there upcoming opportunities for charitable giving that you have been planning for?
- Are those opportunities flexible in their timing?

If, based on your tax situation, you will itemize in 2017 but will not in 2018 (because of tax reform), it is important to consider the nature and timing of your charitable giving prior to the end of December 2017. In situations where contributions can be accelerated, it will likely be more beneficial to your tax position to make those payments or donations in 2017.

To illustrate the point, consider individuals who have old furniture in their garage. They have been planning to give it away, but they just have not gotten around to doing so yet. Unless their charitable contributions in conjunction with other amounts factored into an itemized deduction total will exceed the new standard deduction thresholds, they will not receive a benefit from their donation if they wait until 2018 to give their furniture to Goodwill. It would be more benefit for them to donate those non-cash items in 2017 and secure the benefit in 2017. As a general rule, we would not recommend that you wait until December 31st before you make that trip to your favorite organization that accepts non-cash donations. Doing so may cause you to wait in a long line along with all of the other procrastinators who are attempting to save taxes by making similar donations.

Net Operating Losses (NOLs)

What To Consider:

- Is your company expecting a loss for 2017?
- Have you been planning to carry a 2017 loss back to a prior period or periods?

Proposed changes to the law may further limit your ability to carry back your net operating losses to prior tax years. Under the proposed legislation, beginning with taxable years after December 31, 2017, the option to carry back net operating losses will no longer be available (except in very limited, specific situations).

Consider this as you approach the end of December. If you are expecting a loss in 2017, did your company have income in 2015 and 2016? Will the loss from 2017 fully cover the income from those years? If no, is there any way to increase your 2017 loss through such means as accelerating planned asset purchases? Moving forward from 2017, net operating losses will likely only be permitted to be carried forward and only to the extent of 90% of taxable income. Take full advantage of the current NOL options while they are still available.

General Considerations

In all of this, the goal is to try to maximize any tax breaks in 2017 that might be eliminated in 2018. Every tax situation is unique. The above-noted items are points to consider as you approach year end. Regardless of your position or expectations for 2017 or 2018, we recommend that you schedule an appointment with your tax advisor as early as possible to ensure that you are prepared for the changes that are ahead.

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