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SMC Government Relations Committee
Tax Working Group Conference Call
Brief notes embedded in blue
Wednesday, December 6, 2017
2:00 – 3:00 PM

I. Welcome and Introductions

Attending: *Marilyn Landis,* Vic Conrad, Don Johnston,* Alex Palmer, Eileen Anderson*
**Don Johnston, Tax Advisor to the Government Relations Committee; Partner, Tax Services, Grossman, Yanak & Ford, LLP*
**Marilyn Landis, Federal Tax Resource to the Government Relations Committee, President & CEO, Basic Business Concepts, Inc.*

II. Update - Federal Tax Update - Impacts on small businesses

Landis *proceeded to relay information gathered from her attendance at the National Small Business Association's (NSBA) quarterly board meeting last week in Washington, D.C. She gave a general update of major points of the Senate's version of tax reform. The NSBA Tax Policy Committee has been meeting regularly to address concerns and NSBA staff is in continual dialogue with appropriate lawmakers and staff on Capitol Hill.*

BACKGROUND:

The budget reconciliation process is being used to pass tax reform legislation. That means only a simple majority is required for passage. The goal is to keep the bill revenue neutral so that revenue is the same to the government. A conference committee composed of select House and senate members will hammer out a final tax reform bill. The overall revenue cost of the new plan will add approximately $1.5 trillion to the federal deficit.

Landis: *The Senate bill is the likely version to emerge from the conference committee and it is on a fast track.*

The notes below are adapted from Landis and clarified by several articles published by NSBA.

Individual income tax rates: *The Senate bill retains 7 brackets with the top rate at 38.5%.*

Corporate Rate Reduction: *The Senate bill reduces the corporate rate from 35% to 20% for taxable years beginning after Dec. 31, 2018. This delays implementation of the 20% rate by one year, compared to the House version.*

Pass-through Rates: *The Senate bill does not provide the reduced 25% tax rate for pass-through business income. It provides a deduction equal to 23% of domestic qualified business income from a partnership, S corporation, LLC, or sole proprietorship. There is no reduction in rate for top earners. They will pay the 38.5%. Top earners will, however, be allowed to calculate 23% of their taxable income topped at 50% of W-2 payroll.*

The new pass-through rate it is most helpful to companies with larger payrolls and net profits. The provision sunsets in 2025.

The deduction does not apply to "Professional Service Companies" (an IRS classification for any trade or business activity involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, *brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees), unless a taxpayer's income is below a threshold of $75,000 for single filers, $150,000 for joint filers.*

Johnston: *He noted that the Senate bill is akin to being a "temporary" bill since so many provisions sunset and said it is a very significant concern.*

Conrad: *Another notable difference is that the Senate doesn't reduce corporate income tax rate to 20 % until 2019.*

Landis: *The one year delay will bring in needed revenue to fund some of the cuts.*

Landis: *Some of the provisions sunset because they can't add more than $1.5 trillion to the deficit.*

Landis: *it is not a simple bill; it is very complex. It does cut the corporate rate and it will allow U S multinationals to bring profits back to the U.S. The NSBA board voted to support the Senate version although they have significant concerns which they will address in the future.*

"For NSBA members, meaningful tax reform is a coherent set of reforms designed to promote economic growth, reduce complexity, and reduce administrative costs, increase parity and transparency and voluntary compliance in an equitable manner. In general, NSBA believes that the Senate passed version contains the appropriate elements for a positive and constructive reform of our tax code—one that takes steps toward reducing the complexity of the tax system for businesses of all types while maintaining strong incentives for growth. However, we still have some specific and significant concerns that need to be addressed as lawmakers reach a compromise and move towards a final legislative package."

Expensing: *The Senate bill modifies bonus depreciation to allow for full expensing of qualified property placed into service after Sept. 27, 2017, and phases down write-offs for business investments after 2022.*

Section 179: *The Senate bill increases the Section 179 expense to $1 million, which is significantly lower than the $5 million limit provided under the House bill. The phase-out begins at $2.5 million, which is also significantly lower than the $20 million in the House bill. The Section 179 is a permanent provision that does not sunset.*

Accounting Methods: *The Senate bill expands the scope of eligible taxpayers who may use the cash method of accounting. Taxpayers with annual average gross receipts of $15 million or less can use the cash method. In contrast, the House bill increased the average gross receipts threshold to $25 million.*

General discussion:

Anderson: *What will be the impact to our members who mostly file as pass- throughs?*

Landis: *One step pass-throughs can take is to change their form of business to a C corporation.*

Landis. *The hit will not come in filing or planning. More than likely it will show up in a year or two when a pass-through may be less competitive, for example, when their next door business who is a C corporation will have more money on hand because they are paying taxes at the 20% corporation rate rather than the 38.5% individual rate. The C Corporation will be paying 15-18% less.*

Johnston*: He questioned the logic and said it depended on the standing of the business. If a business had a lower income and was in a lower tax bracket then the difference in taxes between a C corporation and a pass- though could be minimal. The pass-through would pay 38.5% when their joint income was over $500,000. If a pass-through business had a net profit of $60,000 they would pay the lower personal rate.*

III. Action Steps
Anderson: *What is our next step? Should there be an immediate message sent out to members?*

Discussion Landis and Johnston: *SMC Business Councils Government Relations Committee, Tax Working Group will send an email alert to all members on or around December 12.*

- ***Message*** *- Educate pass-throughs about the likely changes to the tax code as of January 1, 2018. Relay the current position of our national affiliate, the National Small Business Association (NSBA) RE: Federal tax reform. .*

Anderson will distribute the brief meeting notes by Friday, December 8th for group approval. Any changes and documents for the member email are due by Monday, December 1st, 10:00 AM.

IV. Update - State Tax
Not addressed due to lack of time. The group agreed to schedule a second Tax Working Group Conference Call in January 2018.

- PA Budget - Net Operating Loss Carry Forward (NOL's) etc.
- Old Issues with the PA Department of Revenue (PADOR)
- New issues with the PA DOR
- Natural gas severance tax
- Active small business tax legislation
  - Like-Kind Exchanges (HB 331 & SB 201)
  - Small Business Equipment Deductions (HB 333 & SB 203)
  - Small Business Net Operating Loss Carry Forward (NOL's) (HB 332 & SB 202)
- Pension investment fees