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October 19, 2020

To Our Clients and Friends:

2020 has been quite a challenge, to say the least. The COVID-19 crisis has brought with it many challenges, which we've worked closely with many of you to overcome. With all the new legislation including stimulus packages, there will be a heightened focus on determining the overall impact on 2020. As we approach the end of the year, it's time to discuss steps that can be taken to help reduce your 2020 tax bill.

The past 12 months have seen several major tax law changes. In response to the COVID-19 emergency, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law in March. In addition, the Taxpayer Certainty and Disaster Tax Relief Act (Disaster Act) and the Setting Every Community Up for Retirement Enhancement (SECURE) Act were passed in December 2019. The Disaster Act extended many beneficial provisions that had expired or were set to expire. Barring additional extenders, many of these will expire again at the end of the year. The SECURE Act, on the other hand, made significant changes to the retirement rules. We'll highlight planning techniques stemming from these recent bills, as well as other year-end planning ideas.

Let's not forget that there is an election in November. While we don't anticipate significant tax law changes if President Trump is re-elected, a victory by Joe Biden would almost certainly lead to tax reform (with potentially higher tax rates). It's also possible that we'll see additional COVID-19 legislation. As always, we're paying close attention to the ever-changing tax environment to discover tax planning opportunities.

Year-end Planning Moves for Individuals

Economic Impact Payment (Individual Stimulus). After you received your individual stimulus from the CARES Act, the IRS mailed the Notice 1444 which shows the amount of the payment. This letter should be kept with your tax records and given to us when completing your tax return. The payment is considered an "advance credit" against your 2020 tax. Taxpayers will not include the payment in taxable income on their 2020 tax return or pay income tax on the payment. It will not reduce your refund or increase your amount due. However, you may be able to claim an additional credit if eligible (for example, if a new eligible dependent was born in 2020). This is why its important to have the Notice 1444 available to reconcile your advance tax credit for 2020 to determine if you are eligible for an additional credit.

Take Advantage of Generous Standard Deduction Allowances. For 2020, the standard deduction amounts are $12,400 for singles and those who use married filing separate status, $24,800 for married joint filing couples, and $18,650 for heads of household. If your total annual itemizable deductions for 2020 will be close to your standard deduction amount, consider making additional expenditures before year-end to exceed your standard deduction. That will lower this year's tax bill. Next year, you can claim the standard deduction, which will be increased a bit to account for inflation.

The easiest deductible expense to accelerate is included in your house payment due on January 1. Accelerating that payment into this year will give you 13 months' worth of interest in 2020. Mortgage insurance premiums for eligible taxpayers also are deductible in 2020, but will once again be disallowed in 2021 barring extension.

Also, consider state and local income and property taxes that are due early next year. Prepaying those bills before year-end can decrease your 2020 federal income tax bill because your itemized deductions will be that much higher. However, the maximum amount you can deduct for state and local taxes is $10,000 ($5,000 if you use married filing separate status).

Warning: This can be a bad idea if you owe Alternative Minimum Tax (AMT) this year. That's because write-offs for state and local income and property taxes are completely disallowed under the AMT rules. Therefore, prepaying those expenses may do little or no good if you're an AMT victim.

Accelerating other expenditures could cause your itemized deductions to exceed your standard deduction in 2020. For example, consider making bigger charitable donations this year and smaller contributions next year to compensate. The CARES Act offers two unique opportunities for charitable minded taxpayers in 2020. **Individuals who don't itemize will be allowed an "above the line" deduction of up to $300 in 2020.** For those who do itemize, the CARES Act increases the limit on charitable deductions to 100% of the individual's Adjusted Gross Income (AGI) for cash contributions made to public charities in 2020. Note there is no requirement that the contributions be related to COVID-19.

Among the provisions of the Disaster Act set to expire in 2020 is the reduced threshold for the medical expense deduction. You might consider accelerating elective medical procedures, dental work, and vision care. For 2020, medical expenses are deductible to the extent they exceed 7.5% of AGI, but that threshold is set to increase to 10% in 2021.

Cancellation of Debt (COD) Relief. Individuals can exclude up to $2 million ($1 million if not married filing jointly) of COD income from qualified principal residence indebtedness that is cancelled in 2020 because of their financial condition or decline in value of the residence. Debt cancelled after 12/31/20 still qualifies, but only if discharged pursuant to a written binding agreement entered into prior to 1/1/21.

Traditional IRA Contributions for All. The SECURE Act removed the age restriction on making traditional IRA contributions. Individuals over the age of 70½ who are still working in 2020 are no longer prohibited from contributing to a traditional IRA. However, if you're over age 70½ and considering making a charitable donation directly from your IRA (known as a *Qualified Charitable Distribution* or *QCD*) in the future, making a deductible IRA contribution will affect your ability to exclude future QCDs from your income. Please contact us for further explanations of QCDs and how they can be an effective way to give to charity and reduce your income.

Carefully Manage Investment Gains and Losses in Taxable Accounts. If you hold investments in taxable brokerage firm accounts, consider the tax advantage of selling appreciated securities that have been held for over 12 months. The maximum federal income tax rate on long-term capital gains recognized in 2020 is only 15% for most folks, although it can reach a maximum of 20% at higher income levels. The 3.8% Net Investment Income Tax (NIIT) also can apply at higher income levels.

To the extent you have capital losses that were recognized earlier this year or capital loss carryovers from pre-2020 years, selling winners this year will not result in any tax hit. In particular, sheltering net short-term capital gains with capital losses is a sweet deal because net short-term gains would otherwise be taxed at higher ordinary income rates.

What if you have some loser investments that you would like to unload? Biting the bullet and taking the resulting capital losses this year would shelter capital gains, including high-taxed short-term gains, from other sales this year.

If selling a bunch of losers would cause your capital losses to exceed your capital gains, the result would be a net capital loss for the year. No problem! That net capital loss can be used to shelter up to $3,000 of 2020 ordinary income from salaries, bonuses, self-employment income, interest income, royalties, and whatever else ($1,500 if you use married filing separate status). Any excess net capital loss from this year is carried forward to next year and beyond.

In fact, having a capital loss carryover into next year and beyond could work to your advantage. The carryover can be used to shelter both short-term and long-term gains recognized next year and beyond. This can give you extra investing flexibility in those years because you won't have to hold appreciated securities for over a year to get a preferential tax rate. Since the top federal rates on net short-term capital gains recognized in 2021 could be higher than the 2020 top rates of 35% and 37% (plus the 3.8% NIIT, if applicable), having a capital loss carryover into next year to shelter short-term gains could be a very good thing.

Key Point: If you still have a capital loss carryover after 2020, it could come in handy if the presidential election results in increased tax rates for 2021 and beyond.

Take Advantage of 0% Tax Rate on Investment Income. A potential silver lining to a down year may be the ability to harvest some long-term capital gains at very favorable rates. For 2020, singles can take advantage of the 0% income tax rate on long-term capital gains and qualified dividends from securities held in taxable brokerage firm accounts if their taxable income is $40,000 or less. For heads of household and joint filers, that limit is increased to $53,600 and $80,000, respectively.

While your income may be too high to benefit from the 0% rate, you may have children, grandchildren, or other loved ones who will be in the 0% bracket. If so, consider giving them appreciated stock or mutual fund shares that they can sell and pay 0% tax on the resulting long-term gains. Gains will be long-term, as long as your ownership period plus the gift recipient's ownership period (before the sale) equals at least a year and a day.

Giving away stocks that pay dividends is another tax-smart idea. As long as the dividends fall within the gift recipient's 0% rate bracket, they will be federal-income-tax-free.

Warning: If securities are given to someone who is under age 24, the Kiddie Tax rules could potentially cause some of the resulting capital gains and dividends to be taxed at the higher rates that apply to the individual's parent. That would defeat the purpose.

Convert Traditional IRAs into Roth Accounts. This may be the perfect time to make that Roth conversion you've been thinking about. The current tax rates are still relatively low compared to a couple of years ago, and while they are scheduled to remain that way until 2026, depending on the results of the November election, they could increase much sooner. Also, your income may be lower in 2020 due to the financial fallout of COVID-19. On the bright side, that means you're likely in a lower tax bracket than you normally find yourself. **Since the CARES Act suspended Required Minimum Distributions (RMDs) for 2020, if you already budgeted to pay tax on your RMD, rolling that distribution to a Roth IRA could be a perfect move.** No RMD for 2020 also means that 100% of the distribution can be classified as a rollover.

It's possible the overall value of your retirement account suffered as a result of the economic downturn. The depressed value in your IRA means a rollover distribution will contain more assets. Once in the Roth IRA, the recovery of value and ultimate withdrawal will be tax free.

Consider Intrafamily Loans. Interest rates are at a historic low and continue to decrease. This scenario creates an attractive opportunity for those interested in assisting family members financially and transferring assets in a tax-efficient manner.

Individuals who wish to lend money to relatives may do so at interest rates lower than what commercial lenders offer, thus allowing the lendee to save money on interest. There's a minimum rate that can be charged by the lender called the Applicable Federal Rate (AFR). Loans with interest rates below the AFR may be subject to gift tax rules. While it's generally advisable to stay above the AFR to avoid being caught by the gift tax rules, individuals can use the annual and lifetime gift exclusions to maximize the benefit to the lendee.

To ensure the loan is an arm's length transaction, follow these steps: (1) have a properly worded and signed document, (2) file the documents with the necessary authorities, (3) provide the lendee with a formal document that summarizes the amount of interest paid each year, and (4) either collect the loan payments or establish the payments will be gifted.

Take Advantage of Flexible Spending Accounts (FSAs). If your company has a healthcare and/or dependent care FSA, before year-end you must specify how much of your 2021 salary to convert into tax-free contributions to the plan. You can then take tax-free withdrawals next year to reimburse yourself for out-of-pocket medical and dental expenses and qualifying dependent care costs. Watch out, though, FSAs are "use-it-or-lose-it" accounts—you don't want to set aside more than what you'll likely have in qualifying expenses for the year.

If you currently have a healthcare FSA, make sure you drain it by incurring eligible expenses before the deadline for this year. Otherwise, you'll lose the remaining balance. It's not that hard to drum some things up: new glasses or contacts, dental work you've been putting off, or prescriptions that can be filled early.

Consider a Health Savings Account (HSA). If you are enrolled in a high-deductible health plan and don't have any other coverage, you may be eligible to make pre-tax or tax-deductible contributions to an HSA of up to $7,100 for a family coverage or $3,550 for individual coverage—plus an extra $1,000 if you will be 55 or older by the end of 2020. Distributions from the HSA will be tax free as long as the funds are used to pay unreimbursed qualified medical expenses. Furthermore, there's no time limit on when you can use your contributions to cover expenses. Unlike a healthcare FSA, amounts remaining in the HSA at the end of the year can be carried over indefinitely.

Don't Overlook Estate Planning. Thanks to the Tax Cuts and Jobs Act (TCJA), the unified federal estate and gift tax exemption for 2020 is a historically huge $11.58 million, or effectively $23.16 million for married couples. Even though these big exemptions may mean you're not currently exposed to the federal estate tax, your estate plan may need updating to reflect the current tax rules. In 2026, the estate and gift tax exemption is scheduled to revert to the much-lower pre-TCJA level. Depending on political developments, that could happen much sooner than 2026. We can help you assess the various risks

Year-end Planning Moves for Small Businesses

Net Operating Losses (NOLs). The CARES Act temporarily relaxed many of the NOL limitations that were implemented under the Tax Cuts and Jobs Act (TCJA). If your small business expects a loss in 2020, know that you will be able to carry back 100% of that loss to the prior five tax years. If you had an NOL carried into 2020, you can claim a deduction equal to 100% of your 2020 taxable income.

Establish a Tax-favored Retirement Plan. If your business doesn't already have a retirement plan, now might be the time to take the plunge. Current retirement plan rules allow for significant deductible contributions. For example, if you're self-employed and set up a SEP-IRA, you can contribute up to 20% of your self-employment earnings, with a maximum contribution of $57,000 for 2020. If you're employed by your own corporation, up to 25% of your salary can be contributed with a maximum contribution of $57,000.

Other small business retirement plan options include the 401(k) plan (which can be set up for just one person), the defined benefit pension plan, and the SIMPLE-IRA. Depending on your circumstances, these other types of plans may allow bigger deductible contributions.

The SECURE Act offers an additional incentive for establishing a retirement plan in 2020. The credit for employers that adopt a new eligible plan is increased from $500 to a maximum of $5,000, and a $500 credit has been added for new small employer plans with an auto-enrollment feature.

Contact us for more information on small business retirement plan alternatives, and be aware that if your business has employees, you may have to cover them too.

Take Advantage of Generous Depreciation Tax Breaks. 100% first-year bonus depreciation is available for qualified new and used property that is acquired and placed in service in calendar-year 2020. That means your business might be able to write off the entire cost of some or all of your 2020 asset additions on this year's return. So, consider making additional acquisitions between now and year-end.

Also, the CARES Act made a technical correction to the TCJA that retroactively treats a wide variety of interior, non-load-bearing building improvements known as *Qualified Improvement Property (QIP)* as eligible for bonus deprecation (and hence a 100% write-off). Alternatively, if you elect out of bonus depreciation, you can depreciate QIP over 15 years (rather than the 39 years provided by the TCJA). Small businesses can take advantage of this provision by filing for a change in accounting method or by amending the applicable return.

<u>Claim 100% Bonus Depreciation for Heavy SUVs, Pickups, or Vans.</u> The 100% bonus depreciation provision can have a hugely beneficial impact on first-year depreciation deductions for new and used heavy vehicles used over 50% for business. That's because heavy SUVs, pickups, and vans are treated for tax purposes as transportation equipment that qualifies for 100% bonus depreciation. However, 100% bonus depreciation is only available when the SUV, pickup, or van has a manufacturer's Gross Vehicle Weight Rating (GVWR) above 6,000 pounds. The GVWR of a vehicle can be verified by looking at the manufacturer's label, which is usually found on the inside edge of the driver's side door where the door hinges meet

the frame. If you are considering buying an eligible vehicle, doing so and placing it in service before the end of this tax year could deliver a juicy write-off on this year's return.

Claim First-year Depreciation Deductions for Cars, Light Trucks, and Light Vans. For both new and used passenger vehicles (meaning cars and light trucks and vans) that are acquired and placed in service in 2020, the luxury auto depreciation limits are as follows:

- $18,100 for Year 1 if bonus depreciation is claimed.
- $16,100 for Year 2.
- $9,700 for Year 3.
- $5,760 for Year 4 and thereafter until the vehicle is fully depreciated.

Note that the $18,100 first-year luxury auto depreciation limit only applies to vehicles that cost $58,500 or more. Vehicles that cost less are depreciated over six tax years using percentages based on their cost.

Cash in on Generous Section 179 Deduction Rules. For qualifying property placed in service in tax years beginning in 2020, the maximum Section 179 deduction is $1.04 million. The Section 179 deduction phase-out threshold amount is $2.59 million.

Time Business Income and Deductions for Tax Savings. If you conduct your business using a pass-through entity (sole proprietorship, S corporation, LLC, or partnership), your share of the business's income and deductions are passed through to you and taxed at your personal rates. If you assume next year's individual federal income tax rate brackets will be roughly the same as this year's, the traditional strategy of deferring income into next year while accelerating deductible expenditures into this year makes sense if you expect to be in the same or lower tax bracket next year. Deferring income and accelerating deductions will, at a minimum, postpone part of your tax bill from 2020 until 2021.

However, it's quite likely that 2020 was a comparatively bad year thanks to COVID-19. Hopefully, you expect to be in a higher tax bracket in 2021. If so, take the opposite approach. Accelerate income into this year (if possible) and postpone deductible expenditures until 2021. That way, more income will be taxed at this year's lower rate instead of next year's higher rate.

Watch out for Business Interest Expense Limit. The CARES Act temporarily relaxed the unfavorable TCJA limitation on a taxpayer's deduction for business interest expense. Under the TCJA, the deduction was limited to the sum of (1) business interest income, (2) 30% of adjusted taxable income, and (3) floor plan financing interest paid by certain vehicle dealers. For 2020, the 30% limit has been increased to 50% of adjusted taxable income. Barring additional legislation, the limit will go back to 30% in 2021. The rules for businesses conducted as partnerships, LLCs treated as partnerships for tax purposes, and S corporations are especially complicated.

Fortunately, many businesses are exempt from the interest expense limit rules under the *small business exception.* Under this exception, a taxpayer is generally exempt from the limit if average annual gross receipts are $26 million (the inflation-adjusted amount for 2020) or less for the three-tax-year period ending with the preceding tax year.

Certain real estate and farming businesses with average annual gross receipts above the threshold also are exempt if they choose to limit their depreciation deductions. In light of the technical correction provided by the CARES Act allowing for faster write-offs of QIP, taxpayers who made the election to limit depreciation are now able to retroactively revoke that election.

The CARES Act also allows businesses to elect to use their 2019 adjusted taxable income in calculating their 2020 limitation. If average annual receipts are typically over the applicable threshold ($26 million for 2020), but not by much, some judicious year-end tax planning may allow your business to qualify for the small business exception for at least some years. We can help with that.

Check Your Partnership and S Corporation Stock Basis. If you own an interest in a partnership or S corporation, your ability to deduct any losses it passes through is limited to your basis. Although any unused loss can be carried forward indefinitely, the time value of money diminishes the usefulness of these suspended deductions. Thus, if you expect the partnership or S corporation to generate a loss this year and you lack sufficient basis to claim a full deduction, you may want to make a capital contribution (or in the case of an S corporation, loan it additional funds) before year end.

Note: The Bipartisan Budget Act of 2015 (BBA) established a new audit regime for partnerships that went into effect in 2018. The BBA regime creates new roles and responsibilities for partners. To avoid future disagreements, it is recommended that partnership agreements be reviewed by competent legal counsel and revised as needed.

Employ Your Child. If you are self-employed, don't miss the opportunity to employ your child before the end of the year. Doing so has tax benefits in that it shifts income (which is not subject to the Kiddie tax) from you to your child, who normally is in a lower tax bracket or may avoid tax entirely due to the standard deduction. There can also be payroll tax savings since wages paid by sole proprietors to their children age 17 and younger are exempt from both social security and unemployment taxes. Employing your children has the added benefit of providing them with earned income, which enables them to contribute to an IRA. Children with IRAs, particularly Roth IRAs, have a great start on retirement savings since the compounded growth of the funds can be significant.

Remember a couple of things when employing your child. First, the wages paid must be reasonable given the child's age and work skills. Second, if the child is in college, or is entering soon, having too much earned income can have a detrimental impact on the student's need-based financial aid eligibility.

Conclusion

This letter only covers some of the year-end tax planning moves that could potentially benefit you and your business. Please contact us at (402) 371-1160 or 1-800-694-1160 if you have questions, want more information, or would like us to help in designing a year-end planning package that delivers beneficial tax results for your particular circumstances.

Best regards,

McMill CPA PC

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