



THE OHIO
SOCIETY
OF CPAs

May 14, 2014
Youngstown State University

YSU CPE Day

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Cohen & Company

2014 Tax Planning Gems (and Pitfalls) for Businesses & Individuals

Session #005

Upcoming Events

Cleveland Spring CPE Conference – May 23, 2014– Course #46375

A whole new CPE season starts with the beginning of spring, and our annual Cleveland Spring CPE Day Conference is a fantastic way to get all the latest news you can use on a variety of topics important to you and your profession. There is so much happening with new regulations, the new health care law and the competitive environment continues to be a strain on all businesses, and with the ability to get information from virtually anywhere, it's hard trying to cut through it all to get to what you need to know. Join us at the Cleveland Spring CPE Day conference and let us help make that easier by providing you with the information you need, from the experts you know, and the industry leaders you trust. Plus it's a great time to network with your peers and satisfy your three-hour ethics requirement. Being close to home with great topics and great speakers this event has it all.

Akron Spring CPE Day– June 27, 2014 – Course #46391

Join OSCPA for one of the most popular CPE events in Northeast Ohio. The 2014 Akron Spring CPE Day conference is coming soon and it's the place to be to get information on just about anything, anytime from a variety of sources. At this conference we're going to help make that process easier by providing you with the information you need on the topics important to you and your industry. This is a great opportunity to learn from the experts and industry leaders you know and trust, plus you can satisfy your three-hour ethics requirement and network with your peers.

· Be sure to visit the Events Catalog at store.ohioscpa.com for more continuing education opportunities.

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Business Tax Planning 2014

Presented By:
Tracy J. Monroe, CPA, MT

Overview

- Landscape
- Business Extenders & Expire Act
- Business Planning
- International
- Ohio Update

Business Provisions



- American Taxpayer Relief Act addressed many popular and expired business opportunities like, however these items were only extended through 12/31/13
 - Bonus depreciation
 - Section 179
 - R&D Credit
 - And many more

EXPIRE Act



- On April 3, 2014 voted to report the Expiring Provisions Improvement Reform and Efficiency Act (EXPIRE)
 - The act would extend most expired provisions through 2015
 - Will we see Comprehensive Tax Reform

EXPIRE Act



- Would make permanent the following provisions:
 - Bonus Depreciation
 - Sec 179 at 500K expense/2 million additions
 - R&D credit
 - 1202 Stock
 - WOTC

Comprehensive Tax Reform



- Business tax reform would include:
 - 25% corporate tax rate
 - Revisions would include:
 - Depreciation
 - NOLs
 - DPAD
 - Like kind exchanges
 - LIFO

Other Incentives in the Legislation



- Section 179 expense
 - Was to revert to 139,000 for 2012, then 25,000 for 2013
 - ATRA extended the 2012 and 2013 expensing rates at 500K with phase outs starting at 2 million of additions
 - Same limitations apply, can be used on purchase of used equipment
 - EXPIRE Acts looks to make this and Bonus Depreciation permanent

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Other Incentives in the Legislation



- Extension of the R&D Credit
 - The R&D credit expired at the end of 2011
 - It has been extended through the end of 2013
 - Expire Act looks to make permanent
- Remember, Ohio has an R&D credit against the CAT tax

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Business Incentives in the Legislation



- R&D Credit is a good opportunity for 2013 tax returns
 - For any business that has wages and supplies incurred for improving processes or developing new products
 - Two ways to calculate that can generate meaningful credits
 - Incremental credit that equals 20% of the excess R&D expenses over base period percentage
 - Alternative simplified credit which equals 14% of the excess expense over 50% of prior year average

Other Business Extenders



- Small Business Stock
 - 100% exclusion for gain on sale of small business stock
 - Held for at least 5 years
 - Must be C Corporation
 - Expire Act looks to make this permanent

New Medical Device Tax



- Enacted as part of the affordable health care act, effective 1/1/2013 there is a new medical device tax applicable to:
 - Manufacturers, producers or importers of medical devices
 - Device is defined in section 201(h) of the FFD&CA
 - Exempted are eyeglasses, contact lenses, hearing aides and any other medical device of the type that is purchased at retail for individual use
 - 2.3% of sales price of device and tax is calculated on form 720

Businesses



- Continue to look at C Corp structures
 - Now highest individual rate is 39.6 while top C Corp rate is 35%
 - Double tax is still an issue, but can plan around that
 - Perhaps the use of a hybrid structure with S Corp parent owning all of the intangibles and the C Corp sub-conducting all of the operating activity

Planning Landscape



2013	Federal	Ohio	Total
Individual Ordinary	39.6	5.925	45.53%
Long-term Gain	23.8	5.925	29.73%
C Corp	34.0	0	34.00%
Double Tax Rate			53.62%

Businesses



- New temporary regs under IRC 263A provide guidance for repairs and maintenance and capitalization of items
 - Concept of betterment outlined to require capitalization
 - Concept of expensing rotatable spare parts after initial capitalization

Businesses



- Production Deduction
 - Manufacturing, construction, engineering, architectural activities can take a deduction of 9% of QPAI or taxable income (lesser of)
 - Development of certain software for sale to customers qualifies
 - Limited to 50% of W-2 wages related to DPGR's

Businesses



- IC-Disc
 - Opportunity for companies that are selling outside the borders
 - Entity that is statutorily authorized to earn a commission on the foreign sales
 - Benefit is income that comes out is taxed as a dividend and the deduction is ordinary income
 - So even with new taxes and increased rates, still a 39.6% vs. 23.8% savings

Businesses



- Small business healthcare credit
 - Credit for small employers (including tax exempt entities) for paying for employees health insurance
 - 25 FTE and average annual wages less than \$50,000
 - Owners are not included in FTE calculation or average wage calculation
 - Claimed on form 8941

Businesses



- Changing accounting methods
 - 2 types of changes, automatic and non-automatic
 - 315 for non-automatic change due before the last day of the year and automatic change is due by the filing of the return
 - 481 adjustment if favorable generally deducted all in year of change and if non favorable, the income is recognized ratably over 4 years

Businesses



- New Rev Proc 2011-14 governs automatic changes
- Look for opportunities:
 - Cash basis accounting
 - Depreciation changes
 - Advance payments
 - Many others listed in rev proc

Businesses



- Consider filing requirements with foreign investments/businesses
 - Form TD F90-22.1 report of foreign bank accounts
 - Form 5471 report by shareholders of a foreign corporation
 - Form 5472 information return of a 25% foreign owned U.S. Corp
 - Form 8804 withholding for a foreign partner

Ohio Update



- Ohio Estate tax repealed for deaths on or after January 1, 2013
- Invest Ohio: small business credit a 10% credit for investing in qualifying small business
- Refundable job retention credit for larger employers
- Historic building credit extension
- Ohio USE tax

Ohio Budget Tax Provisions



- Personal Income tax cut
- Small business income deduction
- Increase to CAT Minimum Tax in 2014
- Sales Tax increase

Questions?

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Individual Tax Planning 2014

Presented By:
Tracy J. Monroe, CPA, MT

Overview

- Current Landscape
- Medicare Surtax effective 1/1/2013
- Tax extenders for individuals
- Estate & Gift

Where are we at now?



- On January 1, 2013 both the House and Senate passed the American Taxpayer Relief Act of 2012
 - Allows the Bush tax rates to sunset for high income individuals/families
 - Permanently patched the AMT
 - Addressed the estate tax
 - Extended many expired individual & business provisions, however, only through 12/31/13

What will happen to extenders?



- Senate Finance Committee is working on the Expiring Provisions Improvement Reform and Efficiency Act (EXPIRE Act)
 - Extends expired provision through 2015
 - Popular individual provisions that expired at the end of 2013 are:
 - Above the line deduction for teachers
 - Deducting state and local sales tax
 - Above the line deduction for tuition
 - PMI deduction

What will happen to extenders



- House Ways and Means Chairman, Dave Camp indicated that the extenders will be dealt with by the committee in 2014
- He stated that we need to determine what to make permanent
- Will the EXPIRE act pass or will it be replaced with Tax Reform?

Is tax reform likely?



- House Ways & Means issues Comprehensive Tax Reform draft plan
 - We have a long way to go before we have consensus to pass something of this magnitude
 - Individual reform includes:
 - a simplified rate structure of 10% and 25%
 - A 10% surtax on high income individuals
 - Eliminate AMT
 - Capital gains would be addressed with exempting some of the income, not having a different rate
 - Most deductions as well as personal exemptions would be eliminated
 - Traditional IRA contributions, SEP and SIMPLE 401(k) would be eliminated with the focus on ROTH IRAs

Individual Income Tax Rates



- American Tax Relief Act of 2012
 - Makes permanent for 2013 and beyond the Bush era tax cuts for everyone except individuals with taxable income above 400,000 and 450,000 of taxable income for married filing joint
 - Ordinary income above these levels will be taxed at 39.6%
 - Capital gains and dividends will be taxed at 20% above these levels
 - Trusts hit 39.6% rate at taxable income of \$11,950

2013 Individual Income Tax Rates: Individual Taxpayers



- | | |
|---------|---------------------|
| • 10% | \$0-\$8,925 |
| • 15% | \$8,926-\$36,250 |
| • 25% | \$36,251-\$87,850 |
| • 28% | \$87,851-\$183,250 |
| • 33% | \$183,251-\$398,350 |
| • 35% | \$398,351-\$400,000 |
| • 39.6% | \$400,001+ |

2013 Individual Income Tax Rates: Married Filing Jointly



- 10% \$0-\$17,850
- 15% \$17,851-\$72,500
- 25% \$72,501-\$146,400
- 28% \$146,401-223,050
- 33% \$223,051-\$398,350
- 35% \$398,051-\$450,000
- 39.6% \$450,001 +

Medicare Surtax



- Additionally, the passage of the Healthcare Act imposes new taxes in 2013
 - 0.9% additional employee Medicare tax on W-2s exceeding \$200,000 for individuals and \$250,000 for families
 - 3.8% Medicare surtax on net investment income if modified adjusted gross income exceeds \$200,000 or \$250,000 levels
 - Surtax applies to trusts with 2013 taxable income at \$11,950

Medicare Surtax



- Items subject to Medicare surcharge
 - Interest, dividends, annuities, rents, royalties not in the ordinary course of business
 - Passive activity income
 - Net gain from the disposition of property, other than property held in a trade or business
- Doesn't apply to
 - S corps, proprietorships, partnerships
 - However, W-2 from S corp and self-employment income will be subject to 0.9% Medicare tax

Medicare Surtax: Some interesting results



- Review status under 469
 - There are 7 tests to determine if someone materially participates or not:
 - 500 hours
 - Substantially all activity conducted by taxpayer over all other individuals
 - More than 100 hours test and no other individual participates more hours
 - Significant participation activity, tp participates more than 100 hours and annual participation in all spa's is more than 500 hours
 - Prior year material participant 5 out of 10 years
 - Personal service activity
 - Facts & circumstances

Final Regs offer some Clarity



- Remember deductions available to reduce the NII
 - State income taxes
 - Investment fees to the extent they exceed 2% of AGI
- Self charged interest not subject to NII

Medicare Surtax: Some interesting results



- Gross income from non passive rental activities
 - Both the gross income and the gain from disposition of the property are deemed earned in the ordinary course of a trade or business and are not subject to the tax
- Safe Harbor for Real Estate professionals
 - Participates in one or more rental real estate activities for more than 500 hours in the year will be deemed in the ordinary course of business
- Self Charged Rental Income deemed in the ordinary course of business

Medicare Surtax: Some interesting results



- Capital gains from sales of stock or partnership interests, look through provision
 - Sale of stock not necessarily subject to the tax
 - If taxpayer is active in the T or B, an analysis must be done to see how much pro rata gain the taxpayer would have if the business sold its assets and that share of the gain will not be subject to the tax
 - Safe harbor available in the regs

Medicare Surtax: Some interesting results



- Tax exempt income is not subject to the tax, may want to re evaluate investments
- Are gain on home sales subject to the tax?
 - They may be but many hurdles
 - The first 250K/500K gain is not subject to tax
 - Any gain over these amounts will be subject to the tax if the other thresholds are met

Medicare Surtax: Some interesting results



- Retirement plan distributions
 - The income is not subject to the tax
 - However, the income from IRA or plan distributions (including conversions to ROTH IRAs) create modified adjusted gross income

Stealth Increases



- Return of the Pease Limit and Personal Exemption Phase-Out
 - Pease Limitation
 - 3% reduction of itemized deductions for individuals with income over \$250,000 and married filing joint with income over \$300,000
 - Personal Exemption Phase-Out
 - The personal exemptions of a taxpayer are reduced by 2% for every \$2,500 over the limits mentioned above

Converting to ROTH IRAs



- Convert Regular IRA to Roth IRA
 - Great opportunity to convert at a low value and take tax-free income in the future
 - Income limits for conversions are removed for 2010 and forward
 - Must convert by 12/31 but can always use hindsight and reverse conversion
 - Also a useful estate planning tool as taxes paid reduce the estate

Impact of Supreme Court's Windsor Decision



- Defense of Marriage Act (DOMA)
 - Implications of repeal
 - Income tax
 - Married filing joint is permissible if marriage recognized under state law
 - Amended returns available
 - IRA rollovers
 - Divorce
 - Estate tax
 - Gift splitting
 - Martial deduction
 - Portability
 - Employee Benefits
 - Healthcare
 - COBRA

Estate & Gift



- American Taxpayer Relief Act
 - Permanently provides for a maximum 40% estate tax rate
 - 5 million annually inflation adjusted 5 million exclusion, inflation adjusted exemption 5.12 million in 2012
 - Portability now permanent

Estate & Gift



- Gift tax
 - The bill provides a 40% tax rate and a unified estate and gift tax exemption for gifts after 2012
 - Was all of that last minute gift/estate planning worth it?

Estate & Gift

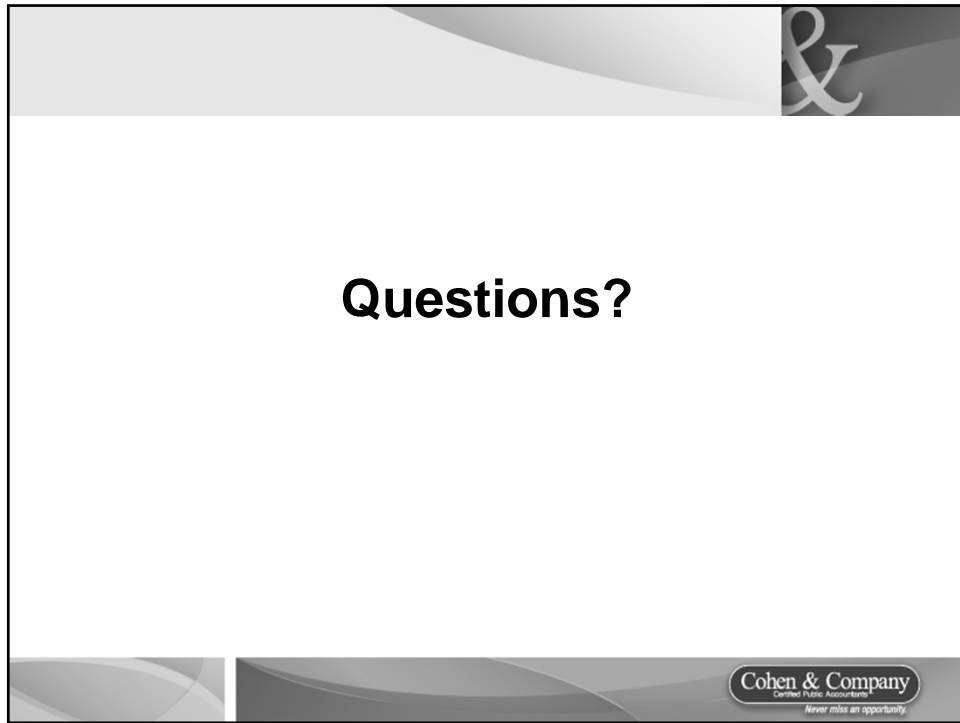


- GST Tax
 - 40% GST rate
 - 5 million exemption
 - Many GST provisions extended
 - Deemed allocation and retroactive allocation provisions
 - Clarification of valuation rules with respect to the determination of the inclusion ratio
 - Qualified severance of a trust for purpose of the GST tax
 - Relief from late GST allocation and elections

Ohio Small Business Deduction



- New for 2013 returns, Ohio has enacted a small business deduction for individuals
 - ½ of Ohio sourced income up to 250,000 can be excluded
 - W-2 income for more than 20% owners is considered small business income
 - Related party add backs need to be considered
 - Income needs to be apportioned, even if the Ohio resident is paying tax on all of the income



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Questions?

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