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BUSINESS ADVISORS AND CPAS

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NEWSLETTER

TAXES AND POLITICS



In recent months various GOP candidates have begun proposing, refining, and, frankly, getting familiar with their own tax proposals. The proposals generally take two approaches - one is a more radical overhaul towards a new tax method such as a flat tax, national sales tax, or a blend of the two. The other approach is more traditional retaining the current tax system with adjustments to encourage investment in businesses and to remove some of the tax burden from the middle class.

Perhaps the best known overhaul proposal is Herman Cain's 9-9-9 plan which consists of three 9% tax rates for national sales tax, income tax, and a business transaction tax, which is basically a Value Added Tax (VAT). These are moves towards Cain's ultimate goal of a national sales tax, which he began touting after negative feedback from his 9-9-9 plan. Even his fair tax plan has been revised, after several prominent economists weighed in, to include a few tweaks for lower-income individuals and economically blighted areas.

Rick Perry has his own flat tax proposal that is intended to simplify the laws and broaden the tax base. Prominent economists say that broadening the tax base will have the effect of a tax increase on middle and lower classes. Perry's flat tax proposal would exempt capital gains, interest, and dividends from income tax - clearly a boon for those with savings and investments.



TAXES AND POLITICS (continued on page 2)

BUSINESS ADVISORY

NEW DEVELOPMENTS IN STATE TAX NEXUS

by Russell D. Hopkins, C.P.A.

Sales Tax

It isn't news that states are looking to improve their revenue sources and that sales tax is a primary target. Many states, including Georgia, have entered into the Streamlined Sales and Use Tax Agreement, (SSUTA) which is a cooperative approach among 44 states and the District of Columbia to simplify sales tax compliance and provide mutual support in sales tax enforcement through legislation and information sharing.



Congressmen are also drafting proposals for taxing e-commerce like the *Main Street Fairness Act of 2011* (H.R. 5660) and the more recent *Marketplace Equity Act of 2011* that seek to establish enforceable rules requiring businesses to pay sales taxes in states based on where the goods are shipped. The only real difference between the two proposals is that only members of the SSUTA benefit from the remote seller provisions of the Main Street Fairness Act.

It is also interesting to note that Amazon, the 800 lb. gorilla of internet retail, ceased warehousing and distribution from Texas over a disputed \$269,000,000 state sales tax bill. However, Amazon publicly supports a federal sales tax.

Income, Franchise, and Commercial Activity Taxes

States are actually gaining ground in the tax battle using the doctrine of "economic presence" to establish nexus for collecting taxes. Cases such as *KFC Corp. v. Iowa*, *W.L. Gore & Assoc. v. Maryland*, and *L.L. Bean v. Ohio* (unresolved), all are battles for determining the constitutionality of "bright line presence" standards that impose taxes - **regardless of tax type** - on out of state companies that lack a physical presence in the State.

The U.S. Supreme court seems to be siding with the states, recently turning down KFC Corp's request for certiorari, which means that KFC will have to pay income taxes in Iowa based on sales to franchisees within the state, even though KFC Corp. owns no assets in the state.

A number of taxpayers who sell to customers in Ohio have been assessed the Ohio Commercial Activity Tax (CAT). The CAT is a tax based on, among other things, a company's gross revenue earned from dealing with Ohio customers. Ohio has won a number of cases challenging the CAT already. More and more states are looking into similar tactics and using penalties and interest to encourage compliance.

The Bottom Line

As state revenue authorities become more creative and successful in their search for revenue more companies are going to have to begin filing income tax, franchise tax, and sales tax returns in other states. Most states have a reasonably fair method for giving credit for taxes paid to other states so that there is no double taxation. Whether you should file in other states is a question that can only be answered with investigation. Our advice, as always, is to be informed.



TAXES AND POLITICS

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Both Cain's and Perry's plans have drawn criticism for increasing taxes on lower income families to the benefit of higher-income families - a claim supported by calculations done by the Tax Policy Center. To offset the low income tax increase, both camps have made adjustments to their plans to make special allowances and credits available to low income families.

On the other side of the GOP tax debate is Mitt Romney. Mr. Romney supports reducing taxes under the current tax regime and extending the Bush-era tax cuts. For individuals he wants to reduce taxes on savings and investment accounts, as well as eliminate the death tax and capital gains taxes for those earning less than \$200,000. He would also like to lower the top corporate income tax rate from 35 percent to 25 percent.

All of these tax proposals include a hefty cut in government spending - a tough but necessary task in weak economic times where government spending is estimated to be 40% of the overall economy.

The complexity of the U.S. tax code derives from several sources - economic idealism, economic stimulus, and political hay for the politically connected. It seems inevitable that any plan we adopt will eventually end up being complicated by these influences, none of which seem to be avoidable. The ultimate question is which proposal will fit best with a long-term economic growth plan. The answer is, debatably, any of them - as long as the offsetting cut in government spending is expertly implemented.



In early November, **Ron Bracewell** attended the AICPA's Business Valuation Conference in Las Vegas marking his 9th year of attendance. This year's conference was held at the new Aria Resort & Casino, the centerpiece of CityCenter, a 67 acre complex with a 3.8 million square foot hotel-casino on the Las Vegas



strip. In addition to attendance at the national convention, BatesCarter is a member of the Financial Consulting Group, a nationally recognized group of business appraisers. FCG provides collaboration and education in the business valuation field. BatesCarter's participation in these organizations reflects its commitment to exceeding expectations. Always.



Duane Schlereth recently attended the AICPA National Governmental and Not-for-Profit 3-day training program. This program provided in-depth tax and accounting updates for not-for-profit organizations as well as accounting and auditing changes upcoming for governments. Duane



says "This conference allows us to hear directly from those who make the rules for these entities. It also lets us interact with others who are recognized leaders in our profession."



Randy Jessup attended the 2011 AICPA National Tax Conference in Washington DC in November. The conference presented many prominent speakers and tax experts who discussed changes in federal tax laws and legislation as well as the potential impact of the 2012 presidential election. The conference



offered a full day of presentations by key IRS officials. Notable speakers included Douglas Shulman, Commissioner of the IRS, and former Senator John Breaux of Louisiana who spoke on the current state of tax legislation in Congress.



Beth Grimes attended the Georgia Government Finance Officers Association's (GGFOA) 2011 annual conference in Savannah in October. This was her 4th year instructing at the conference. This year she taught *Internal Controls for Small Governments*. Also in attendance at the conference was **Duane Schlereth**. BatesCarter



hosted a dinner for clients and colleagues at Savannah's famous 18th century mansion, The Pink House.



BatesCarter was a sponsor at the Georgia Education Advancement Council (GEAC) Annual Conference held at Brasstown Valley Resort in November. Although this was BatesCarter's first sponsorship for the Conference, **Kristi Griffin** was a speaker for a second year. She led a session that was all about auditors. Financial statement audits are an important process for many

organizations. She highlighted tips on managing expectations about the audit, how planning is crucial to a successful audit and ways to utilize an auditor's expertise beyond the audit. Also in attendance was **David Geer**, audit supervisor for BatesCarter.



2011 YEAR-END TAX PLANNING

contributed by CCH; edited by Russell D. Hopkins, CPA

As mentioned in a previous newsletter, all indications are that there will be no substantial changes in taxes between 2011 and 2012. Keep that in mind when reviewing the following tax tips for year-end planning:

INDIVIDUALS

Income/deduction shifting. Accelerating or deferring income and deductions between years is a year-end tax strategy often used by individuals and businesses. Since rates after 2012 are almost certain to go up, it may be smart to accelerate income into 2012 but be careful about bunching income into 2012, which could push you into a higher bracket.

Capital gains/dividends. Reduced tax rates on qualified dividends and capital gains are scheduled to expire after December 31, 2012.

Big ticket purchases. Since the deduction for sales taxes is slated to expire after 2011 consider making large purchases such as automobiles in 2011 so that the sales tax deduction isn't wasted.

Energy improvements. The tax credit for nonbusiness energy property expires after December 31, 2011. The credit can be as much as 30% of total qualifying expenses – up to \$1,500 so if you are considering a new heat pump, energy efficient appliance, or window replacements do it in 2011.

Other incentives scheduled to expire after December 31, 2011 include:

- Employee-side payroll tax cut
- Above-the-line deduction for qualified tuition and related expenses
- Tax-free distributions from individual retirement plans for charitable purposes by individuals age 70 ½ and older
- Deduction for classroom expenses of qualified educators
- Parity for exclusion from income for employer-provided mass transit and parking benefits
- Premiums for mortgage insurance deductible as interest that is qualified residence interest
- Expansion of adoption credit and adoption assistance

BUSINESSES

Bonus depreciation. New (unused) business assets purchased and placed in service before the end of 2011 can be written off 100%.

Code Sec. 179 expensing. For tax years beginning in 2010 and 2011, the Code Sec. 179 dollar limit is \$500,000 as long as total investment in qualifying assets doesn't exceed \$2,000,000. Section 179 can be used on used equipment as well as new.

Real property expensing. Qualifying leasehold improvements, restaurant property, or retail improvement property may elect to treat the property as Code Sec. 179 property and expense up to \$250,000 of the cost of the property.

WOTC. The Work Opportunity Tax Credit (WOTC) for selected new hires is scheduled to expire after December 31, 2011.

Research tax credit. The research tax credit is designed to encourage businesses to increase their spending on research and development of new technologies. This often-overlooked credit expires after 2011.

Differential wage payments. Employers may qualify for a tax credit for differential wage payments made to employees called up for military duty.

Energy tax incentives. A number of tax credits for alcohol fuels and biodiesel/renewable diesel and for construction of new energy efficient homes and manufacture of energy efficient appliances will expire after December 31, 2011.

More business incentives scheduled to expire after December 31, 2011 include :

- Grants for specified energy property in lieu of tax credits
- Seven-year recovery period for motorsports entertainment complexes
- Special expensing rules for film and television production costs
- Expensing of brownfields remediation costs
- Exceptions under Subpart F for active financing income
- Percentage depletion for oil and gas from marginal wells

If you have any questions about the tax incentives we have reviewed and your 2011 year-end tax plans, please contact our office.

MILESTONES TO RECOGNIZE!

PROMOTIONS



Zach Propes has been promoted to Audit Senior in the Commercial Audit Department. Zach interned with BatesCarter during the 2008 tax season and joined the BCC staff after graduating in May 2009 with a BBA in accounting from North Georgia College & State University. After completing his Masters in Business Administration in May, 2012 he plans on acquiring his Certified Public Accountant certification.



Ryan Doss has been promoted to Tax Senior in the Tax Department. Ryan joined BatesCarter in July 2009 after graduating with a BBA in accounting from the J.M. Tull School of Accounting of the University of Georgia. He is currently pursuing his Masters in Business Administration and plans on acquiring his Certified Public Accountant certification after completing the program in June, 2012.

NEW TEAM MEMBER



Gabby Roberts has joined the staff of BatesCarter as a staff accountant in the Tax Department. She graduated in April, 2011 with a BBA in accounting from North Georgia College & State University. She plans to pursue a Masters degree and acquire her Certified Public Accountant certification. Gabby resides in Jefferson with her husband Daniel. Gabby & her husband enjoy spending time with their two border terriers and eight nieces and nephews. They also enjoy spending time outdoors.

NOTES FROM UNCLE SAM

SHOULD MILLIONAIRES PAY MORE INCOME TAX?

by Randy Jessup

That's the question being asked in Washington right now. Recently, billionaire Warren Buffet brought the issue to the media's spotlight by disclosing his average tax rate was 17.4% of his taxable income (mainly due to the 15% rate on capital gains and dividends). The publicity sparked a big debate in Washington as both parties try to look for ways to trim the country's massive federal debt.

The issue of higher earners paying more tax is particularly intriguing when looked at in light of new income tax statistics which shed some additional light on the issue. In 2009, the top 1% of all filers paid 36.7% of all federal income tax, and the top 5% of all filers paid 58.7% of the total income tax. On the flip side, the bottom 50% of filers paid 2.25% of the federal income tax bill, mainly due to refundable credits. These statistics certainly support the notion that the wealthy are already paying a lion's share of the income tax burden.

Some Senate Democrats back a special surtax on millionaires as a way to pay for the job-creation bill. The proposal would levy a 5.6% tax on adjusted gross income over \$1 million (in addition to the income being taxed at its regular rate). This surtax was a replacement to President Obama's proposal to enact a 28% cap on the value of itemized deductions. Some Senate Democrats balked at this itemized deduction cap as it would begin to hit couples with taxable income of about \$215,000. The 5.6% surtax proposal is not going to pass as it was blocked from even being debated on the Senate floor.

Despite the millionaire surtax not being enacted, the issue isn't going away. Democrats think the public will get behind their efforts to raise taxes on high earners while Republicans counter that the tax hikes hurt the economy and inhibit job creation. Needless to say, the ultimate barometer for the issue will be the 2012 elections.

APRICOT-CHIPOTLE CREAM CHEESE STAR

From the Kitchen of Betsy Williams; Courtesy of Betty Crocker



- 12 oz cream cheese
- 1 cup shredded sharp white Cheddar cheese (4 oz)
- 1/2 tsp onion powder
- 1/2 tsp ground mustard
- 1/2 cup chopped pecans
- 1/2 cup apricot preserves
- 2 tsp finely chopped gingerroot
- 2 tsp chopped chipotle chiles in adobe sauce (from 7oz can)
- 48 crackers

Note: Chipotle chiles can be found in the ethnic foods section of the grocery store. Pour the remaining chiles and sauce into a freezer container and freeze for future use.

In food processor, place cream cheese, Cheddar cheese, onion powder and mustard. Cover; process, scraping side of bowl if necessary, until well mixed. Add pecans. Cover; process with on-and-off pulses 2 or 3 times until mixed.

Using a star pattern approximately 7" from point to point, trace and cut out a star from parchment paper. (Use any shape you desire) Spoon the cheese spread evenly onto the shape, using a table knife to shape the star. Turn onto a serving plate; remove the parchment paper.

In a small bowl, mix the preserves, gingerroot and chiles. Spoon over cheese star to serve with crackers.

TAKE A BREAK

contributed by cleanjoke.com

EVER WONDER ...

Why the sun lightens our hair, but darkens our skin?

Why women can't put on mascara with their mouth closed?

Why don't you ever see the headline 'Psychic Wins Lottery'?

Why is 'abbreviated' such a long word?

Why is it that doctors call what they do 'practice'?

Why is lemon juice made with artificial flavor, and dish washing liquid made with real lemons?

Why is the man who invests all your money called a broker?

Why is the time of day with the slowest traffic called rush hour?

Why isn't there mouse-flavored cat food?

Why didn't Noah swat those two mosquitoes?

Why do they sterilize the needle for lethal injections?

You know that indestructible black box that is used on airplanes? Why don't they make the whole plane out of that stuff?!

Why don't sheep shrink when it rains?

Why are they called apartments when they are all stuck together?

If con is the opposite of pro, is Congress the opposite of progress?

If flying is so safe, why do they call the airport the terminal?




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