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2022 Year-End Planning for Businesses

The past few years have been a roller coaster for many businesses, especially many small businesses ruined by the COVID-19 pandemic. High inflation and rising interest rates have created great uncertainty among businesses and consumers alike. At the same time, many companies are now thriving, despite new laws amending the Internal Revenue Code (IRC) and other laws that have created new or higher taxes for some businesses. They have also created new opportunities for businesses to save on their tax bills. Read on for more information about how companies can plan for their 2022 taxes.

The information presented in this article relies on the most recent tax laws and regulations, which can be subject to change with rather short notice. As you prepare your company's 2022 taxes, you should consult with an experienced financial professional for advice tailored to your specific needs.

Recent Tax Increases Affecting Businesses

Several new federal laws have created new or expanded tax obligations for some businesses.

Corporate Alternative Minimum Tax

The Inflation Reduction Act (IRA) became law in August 2022. It reinstates an alternative minimum tax (AMT) for certain corporations beginning in the tax year 2023. The corporate AMT originally became law in 1986, but Congress repealed it in 2017.

The new version of the AMT applies to corporations whose average annual financial statement net income over the previous three years is more than $1 billion. The first year of the corporate AMT will look at the tax years 2020, 2021 and 2022. The tax is equal to 15% of the difference between the corporation's adjusted financial statement income and its corporate AMT foreign tax credit.

Stock Buyback Excise Tax

The IRA also establishes an excise tax for corporate stock buybacks starting in 2023. The tax will be 1% of the fair market value of stock that the corporation buys back during a tax year. It does not apply if:

- The total fair market value for the year is no greater than $1 million; or
- The corporation treats the buyback as a dividend for the purpose of federal income taxes.

The excise tax does not take effect until 2023, so any buybacks that occur on or before December 31, 2022 will not be taxable.

Payment of Deferred Taxes

The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 allowed certain employers to defer payment of Social Security tax liabilities for one to two years. Employers must deduct 6.2% of their employees' pay from each paycheck, up to a certain amount of wages. They must match this amount, making the total amount paid to the IRS equal to 12.4% of employee wages.

The CARES Act allowed employers to defer their share of the tax. They still had to remit the amount withheld from employee paychecks. Payment of the full amount of the tax resumed in 2021. Half of the deferred amount from 2020 was due to the IRS by the end of 2021. The remainder is due by December 31, 2022.

State and Local Tax Liabilities

A business that operates anywhere in the U.S. owes federal income tax, and possibly other federal taxes. It may also owe state and local taxes in any state where it has nexus. This could include income, sales and payroll taxes.

Nexus is a complicated concept. States use a variety of rules for determining whether a business has established nexus. Physical presence in a state is typically enough to establish nexus. In the internet era, a sufficiently large amount of business activity in a state may also satisfy nexus requirements, such as selling a minimum amount of goods to consumers in a state.

Remote work has also created the potential for state and local tax liabilities. An employer with employees located across multiple states could have nexus with some or all of those states.

Tax Credits for Businesses

Two laws that Congress recently enacted provide numerous tax credit opportunities.

Green Energy Credits in the IRA

The IRA expands many tax credits for "green energy" projects found in the IRC. It also establishes new tax credit programs, such as the clean electricity production credit and the clean fuel production credit. Companies that take advantage of these credits may be able to monetize them. The new law allows them to transfer credits to others in exchange for cash.

Investment Credit in the CHIPS Act

The Creating Helpful Incentives to Produce Semiconductors (CHIPS) for America Act became law in August 2022. It provides incentives and subsidies to promote semiconductor production totaling around $52 billion. It also allows businesses that invest in semiconductor manufacturing to claim a tax credit equal to 25% of their investment. The credit will apply to investments made in property or other equipment that goes into service on or after January 1, 2023, and before January 1, 2027.

Employee Retention Credit

The CARES Act created the Employee Retention Credit (ERC) to encourage employers to maintain payroll during the height of the COVID-19 pandemic. Several subsequent laws expanded and extended the program.

Employers may claim a credit on their share of the Social Security tax for wages paid through the end of the third quarter of 2021, up to a maximum of $7,000 per employee per quarter. While more than a year has passes since the end of the tax credit's availability, employers have up to three years to claim credit.

R&D Credit

Businesses that invest in research and development may qualify for the credit for increasing research activities, informally known as the "R&D credit." The amount of the credit could be as much as 20% of the amount spent on qualifying research.

Tax Deferrals and Exemptions in Qualified Opportunity Zones

Congress established the Qualified Opportunity Zone (QOZ) program in 2017 to promote investment in underserved areas. Businesses can defer taxes on capital gains that they reinvest into designated QOZs before the end of 2026. They can receive an exemption from capital gains tax on the appreciation of any asset in a QOZ that they hold for at least 10 years and sell by December 31, 2047.

New Markets Tax Credit Program

The New Markets Tax Credit Program provides tax credits to businesses that make qualifying investments in certain low-income areas.

Business Expenses Deductions

The Tax Cuts and Jobs Act (TCJA) of 2017 set a limit on business interest expense deductions, found in § 163(j) of the IRC. It made an exception, though, for small businesses whose average gross income over the previous three years is no more than $25 million.

Amortization of Research and Experimental Expenses

The TCJA amended IRC § 174 to change the tax treatment of research and experimental (R&E) expenses. Starting on January 1, 2022, these expenses are no longer deductible within the tax year that a business incurs them. Instead, they must capitalize the expense and amortize it over a period of five years, or 15 years in some cases.

Claiming Losses on Worthless Assets

Businesses may be able to write off assets that have lost most or all of their value. The COVID-19 pandemic rendered many accounts receivable worthless, for example. A total write-off of bad debt requires evidence that it would be impossible to collect.

Making the Most of Net Operating Losses

Net operating losses (NOLs) from past years can help businesses reduce their tax liability in good years. The maximum amount that they can claim in one year is equal to 80% of that year's taxable income. They can carry any remaining NOL forward to subsequent years. A particularly bad year can help a business offset its taxable income for many years to come.

Investing in Employees as a Tax Strategy

The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 allows companies to establish qualified retirement plans for their employees retroactively. As long as they can establish and contribute to the plan before the due date for the previous year's taxes, they can claim deductions for those expenditures.

Employers can set up education assistance programs for their employees under IRC § 127. This statute allows them to provide up to $5,250 of tax-free student loan debt reimbursement per employee.

If an employer provides tuition assistance to employees in the form of forgivable loans, the loan amounts become taxable wages upon forgiveness. The employer would then be responsible for their share of Social Security and Medicare taxes.

How Accounting Methods Can Affect a Business' Tax Billing

Companies can save on their tax bills by changing how they do their accounting. If a business uses the accrual method, for example, accounts receivable may appear as income before the business actually receives the money owed to it. Switching to the cash method of accounting would keep accounts receivable as an asset until the money is in the company's hands, possibly during the following year.

Tax Strategies for international Businesses

Companies that do business both in the U.S. and abroad will have complicated tax obligations. Section 901 of the IRC provides a tax credit for income taxes and related levies paid to foreign governments. The wide variety of tax laws around the world can make it difficult to interpret this statute and the IRS regulations implementing it.

Contact Frankel Zacharia today to learn more about how we can support your business at at (402) 496-9100 or **http://www.fzacpa.com.**