THE TEAM WITH THE BEST PLAYERS WINS……. Jack Welch

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Independent Captive Associates, LLC, 6900 Jericho Turnpike, Syosset, NY 11791
www.independentcaptiveassociates E-mail address promano@independentcaptiveassociates.com
Offices located in Boca Raton, Florida; Richmond, North Carolina; Simsbury, Connecticut; Syosset, New York

Year-End Planning… This Year is More Important Than Ever

By Ronald M. Roth, Senior Vice President
National Network of Accounts

On September 13, 2021, the House Ways and Means Committee released its proposed tax plan to fund President Biden's $3.5 trillion *"Build Back Better"* social and economic spending package. If enacted as currently drafted, the plan would bring sweeping changes to the tax law which includes:

- a reduction of the federal estate and gift tax exemption
- reduction of the generation-skipping transfer (*GST*) tax exemption
- limitations on the use of grantor trusts
- elimination of valuation discounts for closely held entities that hold non-business assets
- increased income tax rates for individuals
- increase in the capital gains tax rate from 20% to 25%.

It's unlikely that all of these proposed changes, will ultimately make it through to become law. However, the mere *possibility* of these changes and the increased focus on raising taxes on the top 1% of Americans, has many, if not most of our clients are addressing their income, capital gains, and estate tax planning more closely, as this year is quickly coming to a close.

Year-end tax and financial planning are always quite important, especially for the majority of our clients who own businesses. Taking advantage of all avenues of tax savings that you are legally entitled to *must include the coordination and integration of your business and personal planning.* This is the foundation to ensuring that you maximize tax efficiency, and stay in step with the saying that *it is not what you earn, but what you keep after taxes, that's most important.*

Historically, taxes are as low as they have ever been and they will more than likely be higher in the future. Given this fact, we are consulting with our clients as to tax planning opportunities that exist today and may not be available after this year. The following are some important areas of planning to consider:

Estate Planning

As of January 1, 2022, the current $11,700,000 Federal Estate Tax exemption amount would drop to $5,000,000 (adjusted for inflation). With the reduction, the exemption amount would be approximately $6,020,000 beginning in 2022. The ability to use irrevocable trusts as a gifting vehicle to hold monies for spouses, children, and grandchildren may be greatly impacted by the legislation. Many people make large lifetime gifts to irrevocable trusts for the benefit of family members, and retain the ability to pay the income taxes on the trust assets. These so-called *grantor trusts* become another way to move additional monies to the next generation free of taxes. The proposed tax plan would include the assets of these trusts in the estate of the client on his or her death, thereby defeating a primary purpose of the trust.

When gifting interests in family entities such as limited liability companies, our clients often take a *discount on the valuation* for lack of control or lack of marketability. The proposal would eliminate the availability of valuation discounts for entities that hold nonbusiness assets such as cash, equity, and certain types of real estate as of the effective date of the enactment. On a positive note, no changes have been proposed to the federal estate tax rate. It would remain at 40%.

Income Taxes

Given the proposed increases in income taxation it is important that many clients try to accelerate income this year before higher rates go into effect. For example, if an individual is selling a business, they could try to complete the transaction by the end of the year. In addition, executives who get large workplace bonuses may try to negotiate a way to receive the money before 2022.

In family tax planning scenarios, to avoid clients being hit at a higher marginal income tax rate next year, one could consider gifting an *income-producing asset* like real estate to a family member who falls into a lower bracket. The gift giver would reduce taxable income, and the receiver would pay a lower tax rate on the income from the asset.

Capital Gains Taxes

Clients are limited in how much they can prepare for what will likely be a higher capital gains rate because policymakers have proposed making a hike that is retroactive to September 13th of this year (2021). Still, there are options as clients can defer their capital losses until next year, which would offset their gains when the tax rate could be 25% instead of the current long-term rate of 20%. Next year, all of a portfolio's capital gains may be subject to a 25% capital gains rate, making losses that can be netted against any gains more valuable next year.

Planning for Businesses

While year-end business planning, and its tax implications, could be a very long article in itself, we would like to address one area of planning that has hit many businesses extremely hard in the last two years – risk management and commercial insurance. Even prior to the pandemic, businesses were facing a *hard* commercial insurance market (in excess of 10 continuous quarters of rate increases). We are working with business owners to *reimagine* their business insurance by integrating private (captive) insurance planning in with their commercial insurance portfolios. This combination of risk management planning can turn insurance expenses into profits and deliver tax benefits enjoyed by insurance companies as well.

If you would like a consultation on any areas of year end planning, please do not hesitate to contact us and schedule a meeting.

Please share this information with anyone you feel may be affected by this new legislation, or direct them to our website, www.nnaplan.com to subscribe to our newsletter as we will be sharing updates regarding these, and other important changes as they take effect.

Independent Captive Associates, LLC

For additional information, please contact:

Pamela Romano
Phone: (516) 629-9045
Email:promano@independentcaptiveassociates.com
Independent Captive Associates, LLC
6900 Jericho Turnpike, Suite 300
Syosset, NY 11791
www.independentcaptiveassociates.com