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Why Some Tax Strategies Should Wait Until Next Year

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The Senate and the House closed in on a final version of the tax bill on Friday, as Republican leaders stay on track for final votes on the consensus bill next week.

Some tempting planning opportunities might come to fruition next year, but tax advisers suggest that people resist until the bill becomes law. Why wait? Because taxpayers will be no worse off than they are today, and could be better off if a new tax code is enacted.

Last week, I wrote about the tax strategies that affluent people might want to undertake before the end of the year. These included paying property taxes and state taxes early for taxpayers who have not set off the alternative minimum tax, making large charitable gifts or filling a donor-advised fund, and harvesting stock losses because of a potential tax change about how different blocks of stock can be sold.

This week, I look at the strategies that could be important next year if the tax overhaul shakes out the way advisers believe it will.

Delay expected income.

If you are expecting a large portion of income before the end of the year, consider delaying it until 2018. The tax rates will be lower then and could be low enough to offset the loss of deductions.

It’s a good strategy, but not everyone can control their income. Most people, including high earners who do not own their own companies, do not have authority over when they are paid. Think of Wall Street banks and law firms: Some pay bonuses now, while many wait until February or March when all the 2017 revenue has been accounted for.

And it’s tricky. Income can be legally delayed, but once it has been received, you must pay tax on it. Delaying tax payment on income that has already been received is called constructive receipt, and it can run you afoul of the tax collector.

One example of how someone could get into trouble is to deposit in January a check that was received in December. Another is to send someone a bill for services rendered this year but ask that person not to pay it until the next year, said David A. Stolz, president of Stolz & Associates, a wealth management firm in Tacoma, Wash.

"You have to be able to control that payment legally," Mr. Stolz said. "And then the question is, if you could, what's the tax rate going to be? You don't know."

Stay put.

Proposals to cut deductions for state and local taxes, limit them on property taxes and reduce them on mortgage interest will raise the overall tax for people living in the Northeast, California and a few other states with high property values and high state taxes. But resist the urge to move for tax reasons. For most taxpayers, it's not going to be that bad.

Timothy M. Steffen, director of advanced planning at Baird, a wealth management firm, ran the numbers for The New York Times. He went through four situations for people living in Westchester County, an affluent area in New York State that has the highest property taxes in the country, and Tampa, Fla., a business hub with no state tax.

In the four examples, couples earned $500,000 and rented a home; earned $500,000 and owned a $1 million house; earned $1 million and owned a $2 million house; or earned $3 million and owned a $6 million house. All other variables, like mortgage deductibility and percentage of income donated to charities (4 percent), were kept the same.

Only the couple in Westchester County earning $3 million would pay more in taxes — about $90,000 more — while their counterparts in Tampa would pay less at all wealth levels, Mr. Steffen found. Most people who are still working are not going to uproot their families to move so far away. But for New Yorkers, Mr. Steffen said, there could be some savings on the margin — if they moved to Connecticut, for instance, which also has lower property taxes.

"Connecticut's top rate is 7 percent on $1 million, while New York is almost 9 percent plus the city tax," he said. "But if you're driving back into the city, you're not saving anything on your wages."

Hold off on gift giving.

The estate tax has not been a concern for more than 99 percent of Americans since President Barack Obama and Congress increased the exemption in 2012 to $5 million per person and indexed it to inflation. And under the joint plan discussed this week, that exemption would rise to more than $11 million.

Yet that does not mean there are not planning opportunities for the very wealthy. For one, those who are thinking of making a taxable gift above the current exemption amount should generally wait.

"House, Senate, compromise or no tax law — under any of those scenarios, the estate and gift tax news is either good news or status quo," said Daniel L. Kesten, partner at the law firm Davis & Gilbert. "The only exception is if you're holding an asset that could skyrocket in value, like Bitcoin. You may want to make that gift now."

In that case, you could give that asset away and pay the tax on it now, with the assumption it would be worth more to the beneficiary later. (Of course, that asset could also plummet in value.)

John D. Dadakis, a partner at Holland & Knight, said that he advised clients to wait on gifts, but that many were telling him they were eager to make larger, tax-free gifts next year.

“They look at it and say the next administration that comes in, if it’s a Democratic administration, there’s a high possibility that they change the entire rule,” Mr. Dadakis said. He added that his clients were preparing to make gifts as soon as they could under the new tax code.

If the first-in, first-out rule for selling blocks of stock, which I wrote about last week, takes effect, one option that increases in attractiveness is giving appreciated stock to young adults.

If the owner were to sell the stock, the downside would be a capital-gains tax on the appreciated value, likely at the highest rate. But if the stock were given to a child over 21 who was in a low tax bracket, the child could sell the stock and pay little or no tax on the years of gains, said Liz Miller, president of Summit Place Financial Advisors, which focuses on multigenerational families.

Wait to restructure your business.

Much attention is being given to the reduced rate to businesses structured as “pass-through entities,” which means that the firm’s earnings pass through to the owner’s tax return. The combined bill suggested that both chambers had agreed on a 20 percent deduction for some income.

But it’s more complicated than that. For one, certain types of professional service businesses — like lawyers, accountants and doctors — may not qualify for the benefit.

Whatever the deduction’s final form, business owners need to start to think of how they can maximize that tax break. Edward Reitmeyer, a partner at Marcum, a national accounting firm, told me last month that there were ways for service businesses to split in two so that bonuses paid to executives would be taxed at a lower rate. But structuring that correctly will take planning and care to maximize the benefit and not run afoul of the I.R.S.

If this is all confusing, admit to yourself what Albert Einstein once said to his accountant: “The hardest thing in the world to understand is income taxes.” And then go and get good tax advice.

Representative Kevin Brady, the chairman of the House Ways and Means Committee, said of the tax bill: “Nothing is agreed to until everything is agreed to.” | Jim Lo Scalzo/European Pressphoto Agency | A home in Tampa, Fla., where none of the four hypothetical couples in an analysis of high earners would pay more taxes under the House and Senate plans. | Eve Edelheit for The New York Times