



Robert Spielman / Photo by Bob Giglione

Expiring tax breaks? It's anyone's guess

By: Claude Solnik October 31, 2014

Many accountants are trading their calculators for crystal balls.

While expert, informed number-crunching will always be the professional accountant's hallmark, the expiration of certain business-related tax breaks – and the possibility that some may be renewed – are making it difficult for accountants to make tax-planning decisions and otherwise advise clients.

A provision known as “bonus depreciation,” which allows firms to depreciate half the cost of some equipment and infrastructure improvements, expired this year. That followed drastic 2013 reductions to Section 179, another form of accelerated depreciation, while the sun has also set on a popular research-and-development tax credit – though that one could be revived, perhaps retroactively, later this year.

The U.S. House of Representatives has passed bills extending all three provisions, but none of their companion measures have advanced in the U.S. Senate. It all equals an uncertain mess for accounting professionals, noted Craig Rubin, tax partner at Nussbaum Yates Berg Klein & Wolpow in Melville.

“This is a very hard year for year-end tax planning tips,” Rubin said. “Many of the things we relied on in the past are not there, at least at this moment.”

Other accountants agreed the numerous expirations and possible extensions make thorough tax-planning extremely difficult. Clients want answers, they note, and providing them can be next to impossible when regulations are in flux – offer no advice and you appear ignorant, advise based on current law and you can wind up wrong.

“In tax planning, you have to know the laws,” said Sean Hunt, tax director at PricewaterhouseCoopers in Melville. “We don't know exactly what the rules will be. It puts tax advisers in a touchy situation.”

The potential that sunset provisions could be brought back is the real stumbling block, according to Michael Sadler, tax director at EisnerAmper's Syosset office.

“We can look really bad if they reinstate these and people haven't done this,” Sadler said. “We can blame it on Congress, but ultimately, people look to their practitioners for the final answer.”

As tax-planning becomes more about guesswork, it takes an emotional toll as well as a potential economic one. In some cases, accountants and company executives must make critical decisions about improving equipment or facilities in the dark, unable to anticipate the tax consequences – and that gives clients “angst as to how they should plan,” according to Dennis Cancellarich, a senior manager in WeiserMazars’ Woodbury office

Many accountants and companies are therefore putting off major decisions, hoping for clarity. But there’s no guarantee even how long the period of uncertainty will last, let alone whether things like the bonus depreciation will be revived.

“We may be running down to the wire again, which puts companies in the position where it’s too late in the year to make decisions as to whether they acquire certain assets,” Hunt noted.

Part of the problem is that Congress doesn’t feel the business community’s pain – that is, lawmakers don’t completely understand why accountants and businesses need complete information in advance to make important tax-planning and infrastructure decisions, or why retroactive tax breaks don’t always save the day.

“My feeling on Congress and the government, when it comes to taxes, is they don’t understand what goes into making these decisions,” Sadler said. “They don’t understand how their decisions affect other people.”

While it’s possible that some of the tax breaks will be revived and made permanent, what’s most likely is that some or all of them be brought back on a temporary basis – meaning uncertainty will rear its ugly head again. The periodic confusion is unnecessary, Hunt noted, and “not what this should be about.”

“We go through these situations where we don’t know the rules,” he said. “It’s becoming the norm, which should not be the case.”

Another new norm is that many companies aren’t waiting for Washington to get its tax-break act together. Some accountants note that clients are taking their best guesses on equipment and real estate purchases based completely on need – tax breaks may affect the timing, but the big decisions, they say, are increasingly based on other factors.

“Make your best business decision and don’t let taxes control your decisions,” said Robert Spielman, a tax partner at Marcum in Melville. “Though that’s easier said than done sometimes.”

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