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## Year-End Tax Planning

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You may be asking yourself if a certain CPA is “calendar challenged” to write about year-end tax planning in April. In an average year you would present a valid argument that perhaps I spent too many hours staring at my computer over the past few weeks. But, this is an election year, and more importantly, it is an election year when we know that there will be a new resident at 1600 Pennsylvania Avenue. Will we see changes to the tax code once a new President is in office? The answer is clearly “yes”, the unknown is what those changes might be.

As of this writing all three of the candidates have been reasonably tight lipped about their personal platforms on tax policy. We can only make some educated guesses at this point. At a minimum, the George W. Bush tax cuts, enacted by P.L. 108-27 in 2003 are scheduled to sunset after 2010. The estate tax relief enacted by P.L. 107-16 in 2001 is also scheduled to sunset after 2010. All of that means that the new President could choose to do nothing after taking office and get an effective tax increase as of January 1, 2011 that can be attributed to their predecessor’s watch.

My crystal ball says that the new President may not wait that long. At least two of the final three candidates have voiced their displeasure with the Bush tax cut. In particular, the provisions that reduced the long-term capital gains tax rate and the qualified dividend tax rate to 15%. It is reasonable to assume that changes to these provisions may be enacted before their natural sunset at December 31, 2010. If so, the strategy is to think about whether it makes sense to take advantage of transactions that are locked in at this lower rate. Should recognition of long-term capital gains be accelerated (counter intuitive to the normal acceleration of long-term capital losses that most taxpayers think about each year)? Should corporations think about making dividend distributions to shareholders even if the after tax funds are recontributed to capital of the entity to take advantage of this historically low rate?

If history is any guide, we as taxpayers and tax planners have one item on our side. Tax decreases have often been retroactive changes, but historically, tax increases have been prospective. If that policy holds for the future, there should be time to plan once inauguration day in January 2009 has passed. It would certainly appear that some time will be necessary to make any changes to current law. It would appear that mid-2009 would be about the earliest that changes might be enacted. Interestingly that would be within 18 months of the natural sunset of these provisions described above. We all know that politicians would prefer to blame others for any potentially unpopular policy decisions. Would 18 months be too long to wait, to point the finger elsewhere? Time will tell.

In any event, it is clear that planning is necessary now to begin to explore the potential scenarios that face each of us. Knowing the possible cost of initiating a strategy vs. the

potential cost of doing nothing is an evaluation that we should all be preparing. Hopefully we will learn more about where each candidate stands before November but regardless, I would suggest that you start your year-end tax planning now.

Please contact your GBQ representative at 614.221.1120 if you have any additional questions.