

There has been a substantial amount of discussion about tax reform.

However, action on it is still well down the road. I've received many calls and emails asking for my interpretation of where taxes are going, within the next 2 – 5 years. **All indications are, despite all the chances of a major overhaul, it looks slim.** However, there are things that you need to be aware of, for example;

- **The IRS continues to “feast” on S firms that pay very low salaries to their owners.**
- **In many cases, S firm owners take low salaries so they can receive the bulk of profits through dividends, which are not subject to payroll taxes.**
- **IRS and the courts “balk” at this practice.**

During a recent case, a CPA took a \$24,000 salary, in a year when the S firms profits approximated \$200,000:

- **A district court agreed with IRS that this pay was unreasonably low and ruled that the dividends be classified as salary and subject to payroll taxes (Watson D.C.; Iowa).**

Additionally, there is more bad news on the horizon for firms that are challenging regulations on tax assessments. Last year, after losing in court, IRS issued rules allowing it 6 years, instead of 3, to bill filers for taxes when a gain is unreported via use of an overstated tax basis and more than 25% of gross income was omitted from the return. **Unfortunately, those regulations appear to be valid, unless its challenged at the Supreme Court level**

Additionally, IRS is working on a major compliance initiative to “sniff out” “gift tax cheats”. It estimates that, between 60% - 90% of tax payers who transfer real estate for little or no consideration to family members, failed to file form 709 to report the gift.

For example, IRS is checking transfer records from 15 states; Connecticut, Florida, Hawaii, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, Washing and Wisconsin. So far, over 500 people have been audited, or are under examination, and many more in the pipeline. IRS is very serious about this. **When the California Board of Equalization refused to voluntarily disclose data, IRS went to court to force compliance.** Even if gift tax isn't due on a transfer, a return still has to be filed with the IRS, if the amount of the gift exceeds the gifts annual tax exclusion. **Expect more states to provide information to IRS as the program expands.**

States are also helping IRS locate non filers and under reporters. The agency has partnered with state tax departments to access their income tax files.

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The states now share taxpayer data with IRS, who utilizes that information to go after those who under report income on their federal returns or don't file at all.

IRS is also stepping up enforcement efforts against dishonest return preparers. The plan to seek out those who purposely don't register, under the Preparer Initiative, and to execute search warrants – if needed to flush out fraudulent returns. The government is not looking to punish tax professionals who make honest mistakes. **Instead, it's reserving criminal prosecution for those who blatantly provide bad advice** and show a pattern of gross misconduct that would justify bringing criminal charges.

Also, large income tax base overstatements, can give IRS more time to seek taxes, the Appeals Court states; in a case where an individual used an inflated basis to under report the gain from selling an asset. Since more than 25% of gross income was omitted from the return, because of the understatement, the IRS has 6 years (instead of 3) to send the tax payer a bill for the tax short fall (Beard 7th Cir).

Currently, Appeals Courts are divided on this issue. Eventually, the Supreme Court will have to settle the issue and decide the validity of regulations that IRS issued in 2010 to apply a 6 year statute of limitations, retroactive to open tax years.

There are many trucking companies that are S Corporations and, as the economy begins to improve and earnings begin to increase, an owner needs to be very cognizant of the tax implications that could be facing him/her;

- Don't underestimate your income!
- Don't take most of your income from dividend distributions! and;
- Make sure that your accounting practices are reviewed by a competent accountant!

It's important to understand that the government has to make up for their tax short falls;

- Tax credits have been extended under the Bush Administration guidelines;
- That puts the national debt into further stress.
- The government has to make up for the loss of tax revenue, and;
- **One of the ways to make up the loss is; more audits, less exemptions, and more pressure.**

Additionally, it's also important to understand that the White House isn't going to back down on specific regulations of businesses, that have allegedly abused workers;

- An injury prevention rule that requires employers to find and fix work place hazards, and;
- A disclosure requirement that affects workers who are ineligible for overtime pay.

The government has made a strong statement indicating there is going to be tough enforcement and hefty penalties for anyone they consider to abuse the work rules.

In reference to Capital Gains Tax and Estate Tax issues, estate planning remains full of uncertainty despite the law that tax writers passed late last year; **Congress only delayed the day of reckoning to 2013, when the estate tax exemption is scheduled to drop to \$1MM,** while the maximum tax rate is set to soar to 55%.....the rule was in effect before 2001.

According to the Kiplinger Tax Letter, they expect law makers to extend the current rules, including the \$5MM exemption, the 35% tax rate and the exemptions affordability between spouses.... However, that's only a highly educated guess. In light of the uncertainty in estate tax, **it's a good idea that you have your estate reviewed,** (now), and make any changes necessary.

In closing, IRS is extending the use of mediation and disputes over payroll tax deposits and tax payers who offer to settle tax debts at a discount. In both situations, IRS appeal officers act as referees.

Fast track settlement procedures are now permanent for smaller firms. The goal is to work out an agreement on contested issues within 60 days.

QUOTE OF THE WEEK:

An Irish Blessing

**May there always be work for your hands to do
May your purse always hold a coin or two
May the sun always shine on your windowpane
May laughter be certain to follow the rain
May the hand of a friend always be near you
And may God fill your life with gladness to cheer you
(Author Unknown)**