Updates from the Tax Law section; Steven M. Weiser

A lot of attention was paid recently to new (and some old) tax proposals President Obama included in his State of the Union address to the country. Among his proposals implementation of the "Buffet Rule," named for billionaire investor Warren Buffet, garnered the most attention. The Buffet Rule proposes a minimum effective income tax rate (in this case 30%) for those Americans earning in excess of $1 million per year. Other proposals include new tax credits for U.S. businesses bringing jobs back to the United States, applying tougher treatment for those U.S. businesses shifting jobs overseas, and a lower corporate income tax rate (U.S. multinationals have long clamored that the U.S. corporate income tax rate, among the highest in the world, leaves them at a competitive disadvantage compared to their foreign counterparts). While many of these proposals may resonate with voters they stand little chance of enactment before the November elections. Nevertheless, FGMC will continue to track these developments and be ready to provide our clients with accurate information and advice should any of these proposals or any other tax-related legislation pass into law.

While we don't expect to see the President's proposals enacted in the near future there are changes occurring to Federal tax laws in 2012 or in 2013 that you should be aware of now.

- Itemized deduction/exemption phaseouts. For 2012 there is no longer a phaseout of itemized deductions and personal exemptions for high income taxpayers.
- Capital gains tax rates. 2012 is the last year that capital gains tax rates will be 15%. In 2013, capital gain rates are scheduled to rise to 20%. Additionally, in 2013 qualifying dividends will no longer be taxed as capital gains, instead being taxed as ordinary income. Ordinarily tax planners look for opportunities to defer the payment of tax, but with rising tax rates on the horizon taxpayers may be best served by accelerating the recognition of capital gains to 2012.
- Increased asset expensing. Internal Revenue Code § 179 allows some businesses the opportunity to expense asset acquisitions immediately, rather than depreciating the cost of such assets over time. For 2012, maximum first year asset expensing is $139,000. Beginning in 2013 the amount is scheduled to fall to $25,000. Businesses contemplating asset acquisitions should consider the benefits of acquiring qualifying assets in 2012 rather than deferring such acquisitions to 2013. Additionally, the 50% bonus depreciation for qualifying property will be expiring after 2012.
- Increasing income tax rates. 2001 legislation (extended in 2010) reduced the federal income tax rate brackets on ordinary income. Without new legislation these rates will be expiring and will be replaced with the old higher income tax rates. Again, taxpayers may want to consider accelerating the recognition of income to 2012 rather than deferring income to 2013.

With regard to estate and gift taxes, you should be aware of the following:

- For 2012, the exemption for federal estate and gift taxes is indexed for inflation and adjusted to $5,120,000. The exemption amount beyond 2013 is less certain, as recent legislation is set to expire. Taxpayer's are encouraged to tax advantage of the additional exemption amount in 2012. The one thing that seems all but certain now is that the estate tax isn't going away anytime soon. One of the most often used exemptions from gift tax is the annual exclusion of $13,000 (which amount is not adjusted from 2011).
- In 2011 and 2012, if a spouse passes away without exhausting his or her estate and gift tax exemption the surviving spouse may be able to utilized the previously unused exemption.

Though not a result of recent legislation current low income rates provide several opportunities to engage in more advanced types of estate planning techniques. Opportunities we've recently assisted our clients with include the creation of qualified personal residence trusts, grantor retained interest trusts, charitable trusts and installment sales. We plan on addressing some of these strategies in upcoming newsletters in more detail.

In the meantime, don't hesitate to contact Steven Weiser if you are have any tax-related questions.