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# New Year, New Law, New Long-Term Plan

Illinois CPA Explains How the Fiscal Cliff Deal Can Help with Long-Term Planning

**Taija Sparkman** • Jan. 28, 2013

Since Congress reached a resolution on what's been called the Fiscal Cliff Deal, taxpayers everywhere have been talking about the what the new law means for their tax bill this year. With changes to how much is paid in taxes and which deductions can be taken, many people want to know will they have to pay more in taxes in 2013. However, there is one impact that has been overlooked: the ability to plan long-term.

For the past few years, many businesses and taxpayers weren't able to create financial plans that extended past a year or two due to uncertainty surrounding tax laws. With expirations set for many deductions and tax cuts, it was difficult to know if these items would get extended past their expiration dates. The new Fiscal Cliff Deal changes that with its permanence, explains Geoffrey Harlow, a partner at Kessler Orlean Silver & Co, PC and member of the Illinois CPA Society.

"The fact that we have something relatively permanent is welcomed news because it allows for long-range planning without worrying about whether things will change," says Harlow. "It has been difficult for many of my clients to do long-term planning. With the rules up in the air, it was hard to advise on whether one should take a certain deduction in 2012 or defer it to 2013. How the law is written right now, there's permanence to allow for that long-term planning."

In addition to not being able to plan long-term from a tax standpoint, many Americans have also been postponing updating other important plans while they waited to see the outcome of the pending tax laws. For example, some taxpayers haven't updated their estate plans because they didn't know what the rules were going to be moving forward and how they would impact estate taxes.

"It's a shame when you see people putting off updating their will or even writing one for the first time because of uncertainty about estate taxes," said Harlow. "People didn't want to pay to sit with a lawyer to make important non-tax decisions, such as selecting a guardian for their children, and have to pay to sit down again in 2013 once the new laws were in effect."

While the changes enacted by the Fiscal Cliff Deal allow for long-range planning for business and personal finances, there's not much planning that can be done for this tax season. The window of advantage would've been at year-end, but, unfortunately, the deal wasn't made until after the new year.

"The new laws will affect different people in different ways depending on their individual financial situation," said Harlow. "The best thing for individuals and business owners to do is to work with a financial advisor to see how the new laws affect them and what they can do to better deal with the new laws moving forward."

Small business owners, in particular, will have to decide how to proceed moving forward as it relates to classifying their business. For many business owners they have chosen to be organized as a pass-through entity, such as an LLC taxed as a partnership or a sub-chapter C corporation. Under this situation, the business didn't pay taxes directly, but rather the revenue was passed to the owner's personal income and taxes were paid there.

"Now that the tax rate on individual income has increased to 39.6 percent, we may see a trend of pass-through entities converting to being taxed as sub-chapter C corporations," said Harlow.

The decision of organizing as a pass-through entity isn't as clear-cut as the tax rate. There are still a lot of valid reasons for being a pass-through entity and small business owners will want to consider both the tax and non-tax ramifications. In addition, business owners will want to pay attention to the tax laws at the federal, state and local levels.

"Small business owners need to, first, keep really good records. Bad record-keeping has been the cause of many lost deductions in the past," said Harlow. "Second, they need to be aware of what the rules are and how that impacts their business so they can make the right decisions. Lastly, they need to focus on long-term planning, not just minimizing taxes in one year."

Now that the Fiscal Deal has been reached and is place, it has tremendous potential to help both business owners and taxpayers in their long-term income and estate tax planning. American should take advantage of that, Harlow advises.

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