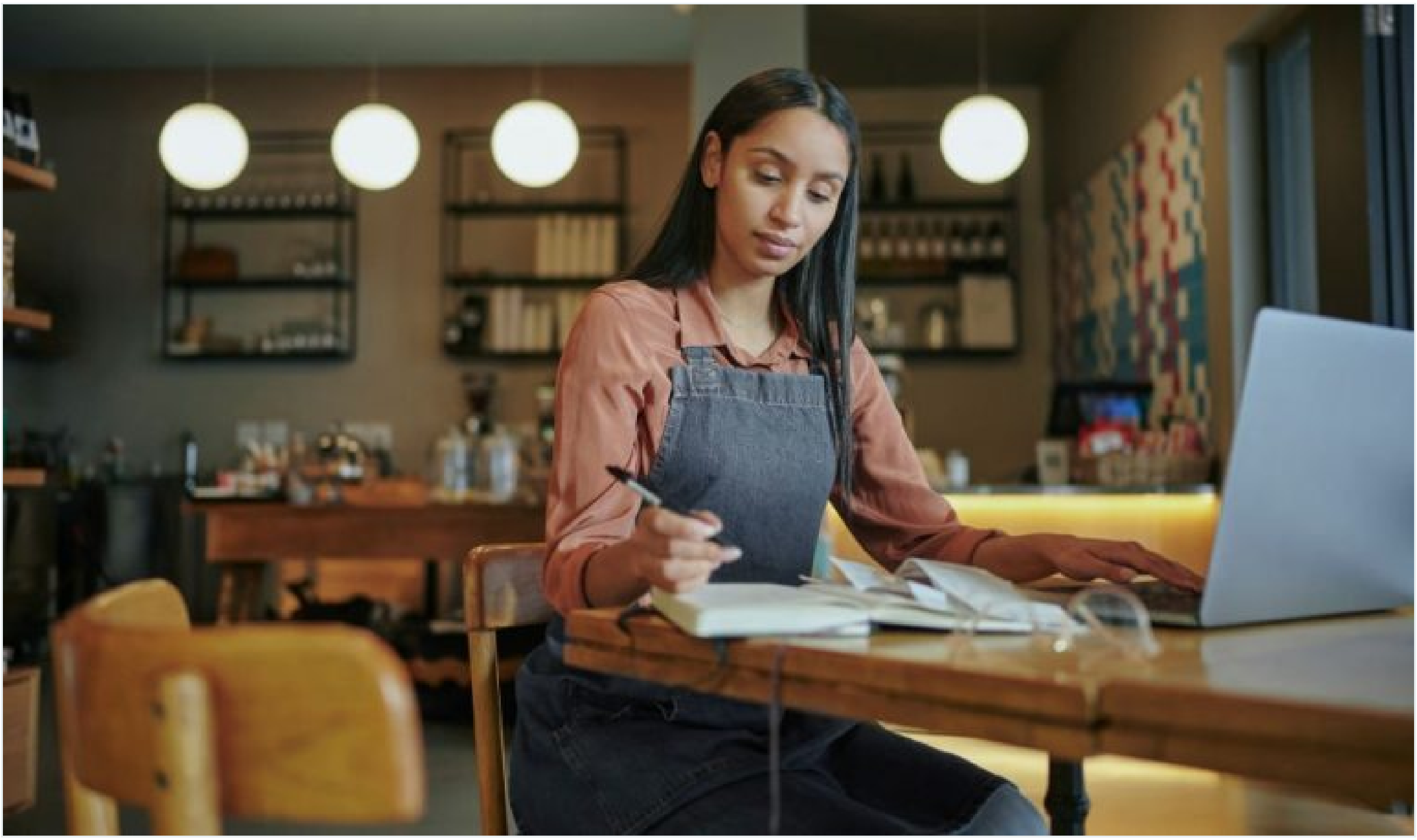
CPA Practice Advisor

underscores business owners' need for tax planning.

Aug. 03, 2023



By Bruce Willey, JD, CPA, Kiplinger Consumer News Service (TNS)

The U.S. Supreme Court has agreed to hear a landmark tax law case this fall, highlighting again the ever-changing extreme complexity of federal tax law. The case underscores an unfortunate reality: Businesspeople need a tax mitigation plan just as critically as they do a financial plan, a succession plan or an estate plan.

And most don't have one. There are 50 to 60 common strategies that can help reduce a taxpayer's overall tax rate, and decisions about their usage are generally left in the hands of the owner's CPA firm. But accounting firms tend to be very complianceoriented and also highly risk-averse. That means they're generally not looking at

want to be

With numbers that big in play, the only responsible choice is to manage tax obligations closely. How aggressively to do so becomes a critical risk/reward assessment exercise for business owners.

Tax mitigation strategies simply take advantage of the way the federal tax code is structured to lessen the amount of taxes owed. They fall into four broad categories:

- **Entity structuring.** Strategies concerning the way your business entity is legally constituted, held, distributes income and is taxed.
- **Pre-tax expenditures.** Strategies focused on ensuring proper expenses and compensation are paid with less expensive pre-tax dollars.
- **Tax-free income.** Approaches for generating income that by legislation or regulation are free from taxation.
- **Wealth accumulation.** Strategies that may allow assets to appreciate/accumulate with lowered or deferred taxation.

Most require significant proactivity on the taxpayer's part (like making a contribution, purchasing an asset, rolling over an investment, etc.). Most also have some level of IRS compliance risk.

How to evaluate that risk? The first thing I tell business owners interested in minimizing their tax liabilities is that, while the word "aggressive" is something most accountants don't want to hear, it is also a word you will never find in the tax code. Instead, the word that matters most is "legal." Is what you are doing within the scope of the law, and do you have the documentation to prove it?

strategies, talk to other company owners you know who think about risk and reward in similar ways to the way you do. See what they're doing and who they've worked with to develop their approach.

In the end, it's the taxpayer, not their accountant, who has to take the initiative to lower their tax bill. Using (or forgoing) a tax mitigation strategy isn't an accounting question but a *business decision*.

While it may seem counterintuitive, the moves by the Biden administration to expand funding for IRS enforcement may lower the cost of proactive tax mitigation strategies. For those already likely to be targeted for audit, there's little incentive to avoid audit-triggering strategies.

All this IRS action will put more business owners in a fighting mood. And given that, seeing business owners working harder to keep more of their company's earnings is likely to become more common.

ABOUT THE AUTHOR

Bruce Willey, JD, CPA, is founder of American Tax and Business Planning.

IRS • Small Business • Tax Planning • Taxes