

# Tax Law Updates, Tips, and Tools

Timber Tax Presentation 2022

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# During last year's session....

- ▶ Stated that new tax law was imminent
- ▶ Could possibly include provisions such as:
  - ▶ Income tax rate hikes
  - ▶ Increased tax on certain Capital Gain transactions
  - ▶ Removal of Stepped-Up Basis
  - ▶ Increased tax on those making more than \$400k
  - ▶ Repeal of 20% deduction provision to small businesses
  - ▶ More inclusive investment taxes

# So, what came to be?

- ▶ Very little
  - ▶ Mainly further Covid-19 relief for individuals
    - ▶ Additional tax credits for those with dependents
    - ▶ Additional stimulus payments
    - ▶ Extensions of unemployment, SBA programs, and payroll credits
- ▶ Build Back Better Bill
  - ▶ Biden administration's big push at some tax reform
    - ▶ Sen. Joe Manchin declared the bill "dead" February 1<sup>st</sup>
- ▶ Future tax provisions?
  - ▶ Very Uncertain
  - ▶ Put on the back burner for now

# End of Covid-19 tax law era - hopefully

- ▶ Paycheck Protection Program loans
  - ▶ Wrapping up forgiveness for loans round #1 & #2
  - ▶ Reported as non-taxable income for certain business type filers / not reported at all for others
- ▶ Reconciling of payroll type credits on 2021 returns
  - ▶ Employee Retention Credit
  - ▶ Sick and Family Leave credits
- ▶ Stimulus/Advanced Child Tax Credit payment reconciliations - Individual returns
- ▶ 100% Meals deduction for those purchased at restaurants
- ▶ Increased charitable donation rules

# Expiring tax provisions

- ▶ Temporary Net Operating Loss (NOL) rules expired 2020
  - ▶ NOL's arising from a loss of non-farm activities must be carried forward
    - ▶ 5 year carryback was allowed for years 2018 - 2020
  - ▶ Farming activity still provided carryback
    - ▶ Per IRS publication 225 - farmers allowed a 5 year carryback for 2021
- ▶ Tuitions & Fees Deduction - expired 12/31/20
- ▶ Numerous Covid-19 related relief items
  - ▶ Exclusion of unemployment income up to \$10,200 - expired 12/31/20
  - ▶ Retirement required minimum distributions - back in place for 2021

# Known future provisions to be thinking about

- ▶ Estate exemption to be cut in half after 12/31/2025
  - ▶ Current exemption 2022 - \$12,060,000
  - ▶ Would revert back to around \$6 million
- ▶ Qualified Business Income Deduction to Expire 12/31/2025
  - ▶ 20% deduction of qualifying business income subject to phase outs
- ▶ Bonus Depreciation to phase out by 2027
  - ▶ 2022 - 100%, 2023 - 80%, 2024 - 60%, 2025 - 40%, 2026 - 20%
- ▶ Individual income tax rate hikes after 2025

# The status of the IRS

- ▶ Per the Taxpayer Advocacy
  - ▶ “Deeply Concerned” about 2022 filing season
  - ▶ As of end of December 2021 - 8.3 million unprocessed individual returns
  - ▶ 5 million pieces of unaddressed taxpayer correspondence
  - ▶ Telephone service worst ever
    - ▶ Only 11% of calls answered - 250 million calls unanswered
    - ▶ At one point, receiving around 1,500 calls per second
  - ▶ 199 days to process responses to correspondence - up from 74 days
- ▶ Per your local Tax Professional
  - ▶ We felt it first hand
    - ▶ Influx of incorrect notices received
    - ▶ Difficulty to resolve issues
    - ▶ IRS technical system failures

# Tips for smooth tax filings

- ▶ Provide your tax preparers with accurate stimulus and advanced child tax credit payments
  - ▶ Should receive letters from the IRS stating the amounts
    - ▶ Reconcile letters with bank statements
- ▶ Submit all filings and payments electronically if possible
  - ▶ Not perfect, but seeing more errors and delays with regards to general postage
- ▶ Be sure to provide ALL important tax documents received
  - ▶ With more 1099's being issued, taxpayers need to be sure that what the IRS has matches what is being reported
- ▶ File an extension just in case if you are filing and paying near the deadline
- ▶ Be patient



# Timber Taxation - Strategizing

# Employed vs. Self-employed

- ▶ Employees
  - ▶ Not much room to wiggle unless another business venture is present
  - ▶ No deduction of employee business expenses
- ▶ Self-Employed
  - ▶ Deduction of business related expenses
  - ▶ Trump tax laws currently still in place
    - ▶ Aggressive capital asset depreciation
    - ▶ Qualified Business Income deduction (20% haircut)

# Investment vs. Business

- ▶ Passive investments, hobbies, and non-active participation
  - ▶ Produces little to no current tax benefit on dollars spent
  - ▶ Most dollars spent are either lost or held until the major capital assets are sold
- ▶ Active trade or business
  - ▶ Opens the door to numerous tax advantages
  - ▶ Typically considered a “Self-employed” activity
  - ▶ Cash inflows/outflows more closely line up with taxable income

# Business like

- ▶ Paint the right picture
  - ▶ Make sure expenses such as interest expense, property taxes, utilities, etc. are being used appropriately and effectively where blurred lines exist
    - ▶ These types of expenses not used in conjunction with a business are just lost
    - ▶ Keep distance between recreation and operations
  - ▶ Does it look, smell and taste like a business?
    - ▶ Material participation - keep a log of time, work, and travel
    - ▶ Profit making intentions - stay active with foresters, organizations, and training/knowledge
    - ▶ Adequate record keeping - management plans, receipt records, etc.

# Common tax deductible expenditures (including depreciable purchases)

- ▶ Property Taxes
- ▶ Insurance
- ▶ Legal & Professional
- ▶ Repairs & Maintenance
- ▶ Supplies
- ▶ Auto
- ▶ Equipment purchases
- ▶ Custom Hire
- ▶ Reforestation
- ▶ Dues & Subscriptions
- ▶ Continuing Education
- ▶ Chemicals
- ▶ Certain Property improvements
- ▶ Fuel & Oil
- ▶ Interest
- ▶ Contract Labor
- ▶ Equipment Rental
- ▶ Utilities

# Adequate Record Keeping - Income taxes

- ▶ How long?
  - ▶ IRS statute of limitations = 3 years
  - ▶ We recommend keeping records 4-5 years with overlap of filing periods
  - ▶ Might retain longer for special purposes - Capital Gains(Losses) & basis
- ▶ What records?
  - ▶ Bank statements, Credit Card statements, receipts, invoices, mileage logs
  - ▶ Images - recently aided in one of our timber farm audits
- ▶ Clear Separation
  - ▶ Not a bad idea to have separate bank accounts/credit cards for each business activity
- ▶ Not the same for other taxes, such as estate or sales.

# Adequate Record Keeping - Cost Basis

- ▶ Cannot express the importance
  - ▶ Permanently store original cost records
    - ▶ Purchase settlement statements
      - ▶ Purchased or gifted
    - ▶ Estate tax returns/records for inherited properties
    - ▶ Distributions from other entities (k-1 statements / 1099-div liquidating)
- ▶ Inherited property
  - ▶ Property appraisals for highest values
    - ▶ Land & Timber

# Business entities

- ▶ Often asked - how should I structure my business?
  - ▶ Options
    - ▶ Sole-proprietor business or farm (1040 Schedule C or F)
    - ▶ Partnership (1065)
    - ▶ S-Corporation (1120S)
    - ▶ C-Corporation (1120)
    - ▶ Trust (1041) \*typically used for estate & succession planning first & foremost
  - ▶ What about an LLC?
    - ▶ Most commonly used entity structure - came into existence after federal tax law structure
    - ▶ An LLC can fall under any federal taxing structure given the right circumstances



# Business entities - why and which one?

- ▶ Key factors in determining what entity structure to use:
  - ▶ Legal liability
  - ▶ Ownership
  - ▶ Succession
  - ▶ Federal and state taxes
  - ▶ Complexity and cost benefit
  - ▶ Payroll and benefits
  - ▶ Growth and buying power

# Handy Tools

## ▶ Mile IQ

- ▶ <https://www.mileiq.com/>
- ▶ A pencil free business mileage log
- ▶ Automatic tracking
- ▶ Year end reports
- ▶ Multiple classifications
- ▶ Can be used from your smartphone or computer

## ▶ QuickBooks Online

- ▶ <https://quickbooks.intuit.com/online/>
- ▶ Real time, cloud based accounting
- ▶ Anytime Accountant assistance
- ▶ Automatic bank feeds and transaction memorization
- ▶ App integration
- ▶ Test Drive the system - <https://qbo.intuit.com/redirect/testdrive>

# Handy Tools

- ▶ Local Appraisal District / Tax Assessor

- ▶ Depending on service provider, they may provide the following information:

- ▶ Owner Info
    - ▶ Deed transfer Dates
    - ▶ Appraised values breakdown
    - ▶ Map Tools and property lines
    - ▶ Appraisal Example - <https://polkcad.org/home>
    - ▶ Assessor Example - <http://polk-tax.com/>

- ▶ National Timber Tax

- ▶ <https://www.timbertax.org>
  - ▶ A wealth of information regarding timber tax for all levels of participants

# Handy Tools

## ▶ Gusto Payroll

- ▶ <https://gusto.com/>
- ▶ Simplified payroll for small employers (I recommend 1-5 employees)
- ▶ Can be as easy as hands free
- ▶ Paperless system

## ▶ Texas Comptroller

- ▶ <https://comptroller.texas.gov/>
- ▶ Research and instructions for basically all Texas taxes
- ▶ Entity lookup - <https://comptroller.texas.gov/>
- ▶ Online filing - <https://mycpa.cpa.state.tx.us/securitymp1portal/displayLoginUser.do>

# Handy Tools

## ▶ Office Lens mobile app

- ▶ Enhances, trims and straightens document images taken by phone
- ▶ Stores them and enables them to be transferred to other devices in readable workable formats
- ▶ Works with most documents, including business cards

## ▶ Rocket Book

- ▶ <https://getrocketbook.com/>
- ▶ Notebook style devices that convert written text into electronic readable and transferrable data

# Handy Tools

## ▶ ShareFile

- ▶ <https://www.sharefile.com/>
- ▶ Secure document exchange
- ▶ Temporary data cloud based storage
- ▶ Able to send multiple and large files
- ▶ Can be paired with e-mail

## ▶ Local CPA's website

- ▶ May provide an available portal for secure document exchange and retention
- ▶ News on tax laws and changes that affect the local area (example - Covid pandemic tax laws)
- ▶ Links and resources