

Tax Law Updates, Planning, and Tools

Timber Tax Presentation 2025

Matthew P. Broyles, CPA

Tax Law Updates & Planning

New Federal Tax Law

- ▶ 2024 - No noteworthy changes.
- ▶ 2025 - Potential
 - ▶ Trump Tax Law extended
 - ▶ Increased Bonus Depreciation
 - ▶ Permanent Qualified Business Income Deduction
 - ▶ Permanent higher estate tax exclusions
 - ▶ Permanent Corporate tax rate of 21%
 - ▶ Tossed around Ideas
 - ▶ No tax on Social Security
 - ▶ No tax on Tips
 - ▶ No tax on Overtime pay
 - ▶ Eliminate estate tax or increase exclusion significantly
 - ▶ Removal of the 3.8% Net Investment Income Tax


Corporate Transparency Act - Beneficial Ownership Information

- ▶ Filed through Financial Crimes Enforcement Network (FinCEN)
- ▶ Requirement to report beneficial ownership information (“BOI”)
 - ▶ Want to know who owns or controls a company
- ▶ Significant number of businesses subject to report
 - ▶ Includes Corporations, LLC’s, or any similar entity created by filing with SOS
 - ▶ Does not include sole proprietors without legal entity established
 - ▶ Some exemptions
 - ▶ Banks, publicly traded, tax-exempt, etc.
 - ▶ Large companies - over \$5 million in revenue / over 20 employees

Corporate Transparency Act - Beneficial Ownership Information (Continued)

- ▶ (Originally) Must file initial before 2024 year end
 - ▶ Exception - new entities must file within 90 days of creation
 - ▶ Drops to 30 days after 2024
- ▶ Steep potential penalties
 - ▶ Criminal and Civil
 - ▶ \$500 a day - up to \$10,000
 - ▶ 2 years in jail

Corporate Transparency Act - Beneficial Ownership Information (Continued)

 **Alert:** Ongoing Litigation – *Texas Top Cop Shop, Inc., et al. v. McHenry, et al.*, No. 4:24-cv-00478 (E.D. Tex.) & Voluntary Submissions [Updated January 24, 2025]

In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports.

On January 23, 2025, the Supreme Court granted the government’s motion to stay a nationwide injunction issued by a federal judge in Texas (*Texas Top Cop Shop, Inc. v. McHenry*—formerly, *Texas Top Cop Shop v. Garland*). As a separate nationwide order issued by a different federal judge in Texas (*Smith v. U.S. Department of the Treasury*) still remains in place, reporting companies are not currently required to file beneficial ownership information with FinCEN despite the Supreme Court’s action in *Texas Top Cop Shop*. Reporting companies also are not subject to liability if they fail to file this information while the *Smith* order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports.

Highlighted Changes from Recent Years

- ▶ Net Operating Loss Carryback
 - ▶ Farms only - 2 years back
 - ▶ All others must carry forward
- ▶ 2025 Bonus Depreciation only 40% and 20% for 2026 if no tax law change
- ▶ Capital Gain rate increases to 20% for income over \$500k (varies based on filing status)
- ▶ Personal casualty loss and thefts - only allowed FEMA declared disaster areas

Timber Loss

- ▶ Examples - Fire & Storms
- ▶ Exceptions to FEMA loss limitations
 - ▶ Loss of assets in the ordinary course of business
 - ▶ Capital Loss (has limitations)
- ▶ Loss must have identifiable quantity, cost basis and determined value immediately before loss
 - ▶ May require outside consultant to determine (remember cost benefit)
 - ▶ Timber must have no value following disaster

Inflation Impacts

- ▶ Social Security earnings limits
 - ▶ \$106,800 - 2010 maximum taxable earnings for Social Security
 - ▶ \$176,100 - 2024 maximum - 65% increase in just 15 years
- ▶ Estate Exclusion
 - ▶ \$13,990,000 exclusion (2025) up from \$11,180,000 (2018)
 - ▶ \$19,000 gift exclusion (2025) up from \$15,000 (2018)
- ▶ Social Security Benefits - Cost of Living Adjustment
 - ▶ 5.9% - 2022
 - ▶ 8.7% - 2023
 - ▶ 3.2% - 2024

Estate Tax

- ▶ After 2025 - under current law, exemption to be cut in half
 - ▶ If today - \$13.990 million to \$6.995 million
 - ▶ Estate tax rate = 40% of asset value, regardless of liquidity
- ▶ Planning may be necessary
 - ▶ Gifting before 2026
 - ▶ Set up of entities and trusts
 - ▶ Adjustments of wills
- ▶ If your assets (single or married) currently exceed \$5 - 10 million, be sure to consult with your CPA and/or attorney
 - ▶ We need answers from the government

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 era tax laws currently still in place
 - ▶ Qualified Business Income deduction (20% haircut)
 - ▶ Some bonus depreciation

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
 - ▶ Material Participation (IRS publication 925)
 - ▶ 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

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

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 depending on how elected

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 - on the ground and satellite imagery
 - ▶ Timber Management Plan/Timber Cruise Data
- ▶ 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.
- ▶ Disaster Prepared - Electronic records and Cloud based

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

Timing is everything

- ▶ Avoid roller coaster tax rides
 - ▶ Averaging out income over time results in lower tax paid over time
 - ▶ Higher Income results in loss of certain deductions and credits (phase-outs)
 - ▶ Higher Income results in additional types of taxes
 - ▶ Additional investment & Medicare taxes
 - ▶ Alternative Minimum Taxes (AMT)
 - ▶ Utilize additional expenses/losses in years of additional income
 - ▶ Example - purchase of equipment in a year of a major cut/sale
- ▶ Plan, Plan, Plan
 - ▶ October - December
- ▶ IRS works off cash basis by default

Tips for smooth tax filings

- ▶ Submit all filings and payments electronically if possible
 - ▶ Not perfect, but seeing more errors and delays with regards to general postage
- ▶ Cost saving tip - provide bookkeeper or tax preparer with QuickBooks or Excel downloads of annual transactions for quick summarization
- ▶ 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
- ▶ Setup online IRS account - potentially request protection pin #
 - ▶ Ease of access to IRS records
 - ▶ Prevents Identity Theft

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

▶ Texas A&M Map My Property

- ▶ <https://texasforestinfo.tamu.edu/mapmyproperty/>Secure document exchange
- ▶ Historical Imagery
- ▶ Boundary Lines
- ▶ Ability to edit and print

▶ 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

Contact Info

- ▶ Matt Broyles, CPA
- ▶ Livingston, TX
- ▶ mbroyles@axleyrode.cpa
- ▶ (936) 327-3166
- ▶ axleyrode.cpa/timber-tax



Questions?