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2015 Tax Savings Ideas for Restaurant Owners

By Dennis Monroe

Restaurant owners constantly need to evolve their concepts and update their facilities. Owners are aware of this fact and accept this as part of ongoing success. I wish the same could be said about Congress. As we go into 2016, we still do not know if Congress will extend certain tax provisions that have been advantageous to the restaurant industry.

A few major issues that Congress needs to deal with are: (1) the 50% bonus depreciation on qualified assets; (2) the Section 179 depreciation deduction; (3) the 15-year life on leasehold improvements; and (4) certain tax credits.

Notwithstanding the fact that we are up in the air as to year-end tax planning, I want to present some tax ideas in this month's column. They are not unique or new, but I would like to put a special spin on them so as to make them especially relevant to a restaurant owner's year-end tax planning.

The first and probably most beneficial tax change is a "Safe Harbor" method for restaurant and retail refresh/remodeling costs. The IRS has provided qualified retail and restaurant businesses with a method for determining whether expenses paid or incurred to remodel or refresh are deductible under Section 162 (this is the section for ordinary, necessary business expenses) or should be capitalized under Section 263.

This procedure is effective for tax years beginning with 2014 (and could be a reason to amend your 2014 return). The first time you use the safe harbor method, there is an application for an accounting method change.

What happens is that 25% of qualifying remodel/refresh costs are capitalized under Section 263 and the remaining costs are expensed in the year in which they were made. This provides the taxpayer with guidance, since there is no need for a detailed factual analysis (as there was in the past) to determine whether costs incurred for a remodel/refresh are for repair, maintenance or improvements. This also should serve as a benefit for franchisors who want their franchisees to remodel their units.

Some other tried and true year-end tax planning ideas:

1. Deductions. If there are any issues of cash availability to get a deduction, you can always use your credit cards. In effect, credit cards serve as payment for deductible expenses as well as state and local taxes. Most entities in the restaurant industry are flow-through entities (like LLCs or subchapter S corporations), so individuals should make sure they pay their state tax that will be due in 2016 prior to the end of 2015.

2. Depreciation. While we are uncertain as to depreciation rules, it is still a good idea to purchase machinery, equipment, fixtures in 2015, because you will at least get one-half of a year's depreciation. We're still hoping there will be a reinstatement of bonus depreciation.

3. FICA Tip Credit. Carefully analyze the FICA tip credit; whether it should be (a) taken as a credit, directly offsetting tax; or (b) taken as a deduction for wages paid. In the past we could not offset alternative minimum tax with the FICA tip credit, but that rule has been changed so, in most cases, the credit is the right approach, unless there is little income.

4. New Construction. If you are involved in new construction of a restaurant, it is still important to look at a cost segregation study to make sure all of the construction costs are put into the correct depreciation bucket so depreciation is maximized.

5. New Hires. Take advantage of the special tax credits that are available to companies that hire employees from certain targeted groups. Typically, targeted individuals require an outside third party to certify the employees.

6. Research and Development Credit. It is amazing how much research and development is done by restaurants. Unfortunately, restaurant operators often forget the research and development credit that is available for 20% of certain qualified expenditures for development of new products, methodologies, procedures, technologies or other expenses which exceeds the amount that is normally spent on an annual basis for such purposes.

7. Small Business Health Care Tax Credit. This tax credit is available for companies with 25 or fewer full-time employees.

8. Gift Cards. Always look at your gift cards for the year. Check the provisions regarding when the gift cards are taken into income to ensure you receive optimal deferral of income.

9. Creative Items. Review your balance sheet to determine if there are (a) certain assets that can be written off; (b) prepaid expenses that can be currently deducted; (c) intercompany accounts that need to be adjusted; or (d) loans to shareholders or employees that should be reclassified as wages and deductible.

10. Shifting. Restaurant owners and multi-unit operators often have the benefit of being able to shift income and expenses between entities. Some ideas in this area include keeping the intellectual property in a separate entity and paying a license fee, using management companies, and adopting different fiscal years to be able to effectively move income or expenses from one year to the next year. It is probably a little late to do this for 2015, but keep this in mind for 2016.

I hope these tips are helpful for your year-end tax planning. Have a good tax season, if you can.

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