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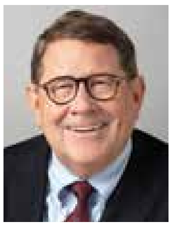
Seven tax ideas to take advantage of this year



Dennis Monroe

ITS TAX TIME AGAIN. THERE probably has never been a year-end that has had so many opportunities and yet so many challenges for figuring out ways to save on taxes for 2020 and 2021. A number of these tax benefits were created under both the original CARES Act and then the second installment of it, and there are some historic ones to always keep in mind when looking at tax planning. Here are seven that are unique to the restaurant industry.

- **PPP Loan Taxability** There are two aspects to the Payroll Protection Program (PPP) loan which have come into play. One is the lack of taxability of this loan. If it is forgiven, which would normally be a taxable event, the loan specifically states that it is not taxable. In most cases, most PPP loans were not forgiven for 2020 because the applications were not completed or the applications were not approved for forgiveness. That being said, there still is no tax effect for 2020 when filing, even if there is some question as to the forgivability. By the same token, the latest legislative action also made it clear that the funds used under PPP loans that hopefully result in forgiveness of the PPP loan, also are clearly deductible if they are ordinary and necessary expenditures. This was a point up in the air. It would have resulted in 37 percent of the PPP loan being, in effect, a reduction of 37 percent of the PPP loan as it relates to benefits for the restaurant. This is all good news. One final note on this from a financial statement standpoint: Normally you don't take into income the PPP loan until it is forgiven, so in many cases, most restaurants from a GAAP standpoint will be taking the PPP loan into income in 2021.

- **State Tax** While the above rules apply to federal tax, the states, in many cases, are not conforming to the federal tax rules yet. Many states have bills that have been introduced to comply with the PPP payments and the tax deductibility, but at this point, there are a number of states that still have not complied with the federal law. That being said, it may be the case that you will not have any adverse tax effects at the federal level, but you may have them at the state level. You will need to look at and clearly do some planning, possibly extending your return until your specific state has decided this issue. On February 16, the state legislature started the process to consider complying the Minnesota tax law with the federal.

- **Meals and Entertainment Deduction** One of the items which will help the restaurant industry significantly is the deduction which limited meals and entertainment deductions at 50 percent has been changed and is now 100 percent for federal tax purposes. This is excellent because the deduction will encourage people to eat at restaurants, particularly for business purposes.

- **Employee Retention Credit** There are two different special credits here. The first is an employee retention credit which, in the past if you had PPP loans was not available. This, again, was changed, so the restaurant owner will have the ability to take a refunded tax credit against federal payroll tax on their form 941. This now has been increased from 50 percent for a direct offset to 70 percent, and it applies up to $7,000 per quarter, per employee, rather than $10,000 per year for the credit on taxes paid on an employee. This is refundable, too, so take advantage of your item 941.

- **Work Opportunity Tax Credit** Another credit is the work opportunity tax credit (WOTC), which is a credit for employers who hire individuals from certain target groups. The WOTC can reduce restaurant federal liability up to $9,600 per employee. What constitutes a covered employee is pretty broadly based, including veterans, ex-felons, vocational rehab, summer youth programs. A lot of these employees are already in the restaurant industry.

- **FICA Tip Credit** We still have the FICA tip credit for employees of the restaurant which offsets taxes for the owners of the company if it is a flow through entity, or to offsets tax at the corporate level. The only issue with this deduction is that if you use the credit, you don't get the deduction for the wages associated with the credit. That being said, it is still something that is valuable and it has been liberalized over the years.

- **Cares Act Rules** Thanks to various rules passed under the CARES Act last year, there is the ability to carry back certain losses which still exists, plus all of the favorable depreciation rules, including the bonus depreciation and Section 179 depreciation. These particularly apply if the restaurant is doing any kind of remodeling or purchasing new equipment to retool themselves for post-Covid, but these still exist and still can be a way to minimize tax.

States around the U.S. are looking at reduction in property taxes for certain businesses, including restaurants, which would be a boon for the industry. There are also some opportunities to defer payment of other employee taxes and withholdings both on the federal and the state level, and perhaps that will materialize for Minnesota, as well.

There are a number of good things this year, but there are also a lot of tricks to it and a lot of uncertainty at the state level. But if your goal is to save taxes—and isn't that every business owners'—then you'll want to check out these seven items with your tax preparer. FSN

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