

# Tax Law Updates, Planning, and Tools

Timber Tax Presentation 2024

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# Tax Law Updates & Planning

# New Federal Tax Law

- ▶ 2023 - No noteworthy changes.
- ▶ 2024 - Potential
  - ▶ The Tax Relief for American Families and Workers Act of 2024
    - ▶ Passed the House of Representatives - waiting on Senate approval (as of 2/3/24)
    - ▶ Provisions
      - ▶ Advances Employee Retention Credit submission to 1/31/2024
      - ▶ Slight changes in Child Tax Credit
      - ▶ A number of breaks for businesses
        - ▶ Increases bonus depreciation back to 100% through 2025 (currently 80% for 2023, 60% for 2024)
        - ▶ Accelerated deduction of Research and Development costs
        - ▶ Increased minimum 1099 reporting to \$1,000 (currently \$600)

# Texas Franchise Tax

- ▶ **BIG CHANGE** - No tax due threshold increased from \$1.23 million to \$2.47 million
  - ▶ Those under threshold no longer required to file “no tax” report - only public information report

# 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)

- ▶ 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

# Highlighted Changes from Recent Years

- ▶ Net Operating Loss Carryback
  - ▶ Farms only - 2 years back
  - ▶ All others must carry forward
- ▶ Meals deduction is back to 50% - Entertainment not deductible
- ▶ Effective January 1, 2023 age to Required Minimum Distribution (RMD) is increased to 73. Must take by April 1 of the year after turning 73.
- ▶ Qualified Business Income Deduction - 20% of net income deduction for most businesses
- ▶ 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
  - ▶ \$168,600 - 2024 maximum - 58% increase in just 14 years
- ▶ Estate Exclusion
  - ▶ \$13,610,000 exclusion (2024) up from \$11,180,000 (2018)
  - ▶ 22% increase in just 6 years
- ▶ Education Credits - American Opportunity Credit
  - ▶ 2010 - Phaseout Limit - \$160,000 - \$180,000
  - ▶ 2024 - Phaseout Limit - unchanged
  - ▶ Why no change???

# Estate Tax

- ▶ After 2025 - under current law, exemption to be cut in half
  - ▶ If today - \$13.61 million to \$6.8 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

# 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
    - ▶ 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
  - ▶ 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
- ▶ 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

# 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 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

# 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

## ▶ 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

# Contact Info

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Questions?