CPA ROUNDTABLE

How do you think the new administration will change the tax landscape for your clients?

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I work with a lot of high-net-worth clients at Rothenberg & Peters. Depending on who the client is—whether a high-net-worth individual generating lots of income or not—the planning could be different. So if you expect tax rates to go up in 2022, then, typically, what you would say to clients, based on the legal way of doing things, is, "Try and recognize more income now and not push projects into next year, if you can help it." But in the same scenario, you might have an opposite approach, from a legal standpoint, on cost. You might want to recognize more income in '21 rather than in '22. Additionally, depending on what the administration is looking at, you may want to think about some other business transactions occurring sooner rather than later. If you're a high-income earner, it might behoove you to liquidate certain investments before next year, depending, of course, on what laws affect particular taxpayers.

It's also interesting in terms of what they want to do for estate tax purposes. It's so wide open right now because you know there will be a lot of horse trading in Washington. Biden has been discussing taxing unrealized gains upon death, which everyone should be aware of and think about when they invest in the market or in other intangibles.

I'd also advise some caution if clients are trading in cryptocurrencies—there will be more regulation in terms of disclosures, going forward, which is a good thing, as far as tax prep is concerned. But it remains something clients should be aware of going forward.

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President Biden proposed a substantial increase in funding to the IRS in an effort to enhance tax enforcement. This funding can be used to more aggressively target nonfilers and late filers. Overall, I believe there will be a higher number of IRS audits. We may see this at the state level as well, since it's very clear that all governments at all levels are looking for additional revenue. As part of the American Jobs Plan, Biden proposed increasing the corporate tax rate to 28 percent from the current 21 percent. Biden is also expected to propose raising personal income tax rates. During his election campaign, he proposed raising the top personal income tax rate to 39.6 percent from the current 37 percent. If passed, this raise would restore the top rate to its pre-Tax Cuts and Jobs Act rate. Additionally, Biden is expected to propose raising the top federal capital gains tax to 39.6 percent from the current 20 percent.

While unrelated to the new administration, the IRS has offered several tax relief initiatives, as a result of COVID-19, to give taxpayers additional flexibility in resolving their tax problems. These include simplifying the installment agreement process for those owing under $250,000. As a result, now may be an ideal time to submit an offer in compromise to the IRS, as it has indicated a growing willingness to work with taxpayers unable to meet the terms of already-existing offers or needing to enter into one due to financial hardship.

On the state and local level, New York state's recently passed budget increased the income tax rate to 9.65 percent from 8.82 percent for individuals earning more than $1 million (and couples earning more than $2 million) and will create two new tax brackets. Ironically, changes like this might cause more individuals to leave the state, which could further the need for New York state to raise more revenue.

One area we are closely watching is how New York state will enforce its residency and change-of-domicile rules, given the ever-growing trend of telecommuting. New York's telecommuting rules, while not new, are particularly challenging. It gets even more complicated when you take other states' rules into account. Sales tax, withholding, income tax and other issues are implicated, as the policies aren't consistent across the country.

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The Tax Cuts and Jobs Act was a major event, as far as international tax is concerned, but I don't think we'll see something on that level from the new administration in the immediate future. I do, however, believe we'll see continued emphasis by the administration and the IRS on compliance. Because the penalties can be quite large for noncompliance, we are very careful to make sure every one of our clients is in compliance, so they don't get hit with a large fine. Those in this practice area may benefit from taking a more cautious approach going forward than before.

As far as general tax issues go, with the new stimulus bill just getting passed, which includes more social programs, one thing I expect is that the estate tax exemption will be lowered. We have been talking to clients and trying to do a little bit of planning surrounding that, so that potentially impacted clients are able to take advantage of the larger exemption now, in the event that it goes down in the future.

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Back in November, we were hesitant to give advice until the Senate race had finished because that would control what the administration could and could not do over the next couple of years. But once the Georgia races came in the way they did, even some of our clients beat us to the punch by contacting us, expecting rates to go up. A lot of our planning is centered around this anticipated tax increase. We look at if our clients can accelerate income or push forward deductions, for example, through the favorable bonus depreciation acceleration rule that's out there. However, some clients have decided not to take it, whether this year or last year, with the assumption there will be higher rates and a bigger bang for the buck by delaying some of those deductions.

Because of ongoing budget cuts at the IRS, in practice, we've seen enforcement not as strong as it's been in the past, and this has been an ongoing trend. It might change if they do get more resources from the administration, but as of now, there's been a lack of audits and enforcement.

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