AGRIVIEWS

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CONTENTS

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TAX PLANNING STRATEGIES: 2014

By Breann Netto, CPA

Tax day comes and goes every year. It is tempting to pay our quarterly and annual taxes and try to forget about them until the following due date. However, it is imperative that we stay up to date on the revolving items in the tax arena and consult with tax experts each year to properly plan our business strategies.

Several "temporary" tax breaks expired at the end of 2013. Many items have changed including the designated economic development areas for tax incentives, expensing fixed assets under Code Section 179, and bonus deprecation.

Currently there is a bill in Congress to approve the EXPIRE Act, Expiring Provisions Improvement Reform and Efficiency Act, which will reinstate many provisions that expired on December 31, 2013. Some of these popular provisions include: R&D Tax Credit, §179D Energy Efficiency Deductions for Commercial Buildings, 50% Bonus Depreciation & Section 179 Expensing Thresholds, 15-Year Life for Qualified Real Property and Hiring & Employment Credits.

Prior to decreasing Section 179, a taxpayer had the ability to elect to expense tangible property under Code Section 179. Eligible Section 179 property consists of new or used property placed into service, including machinery, equipment, limited computer software and some non-building land improvements. Prior to January 1, 2014, the election was available for up to $500,000 of Section 179 property per year. The dollar limit was reduced, dollar for dollar, for the excess 179 property placed into service in the year exceeding $2 million dollars.

For tax years beginning in 2014, the dollar limit drops to $25,000 dollars and the dollar for dollar phase-out is $200,000. The computer software and non-business improvements are also eliminated from eligible property under the new guidelines. If the tax extender bill is not passed at the end of the year, this provision will affect small businesses in 2014.

The 50% bonus depreciation deduction has also expired at the end of December 31, 2013 and is no longer applicable for depreciable assets in 2014. Prior to January 1, 2014, a taxpayer was able to expense 50% of the cost of an item of new qualified property in the year placed in service. Bonus depreciation results in a 50% deduction and only applies, to the following qualified property: new tangible property with a depreciable period less than 20 years including machinery, equipment, tangible personal property, and non-building land improvements, most computer software, and certain leasehold building improvements. There is a motion to reinstate this on the extender package.

The tax extender bill is expected to reinstate these advantageous provisions for taxpayers to the prior thresholds and deductions effective for the 2014 tax year. Members of the House Ways and Means Committee and Senate Finance Committee have been meeting to discuss tax extenders and many conversations have led taxpayers to believe that the priorities among the parties are the research credit, Section 179 expensing and bonus depreciation. More than likely there will be no action taken or decision made until November or December.

Recently, the Treasury Department and the IRS released final regulations on the deduction and capitalization of tangible assets. The “repair regulations” will impact businesses in most industries—farming, banking, manufacturers, food processors, real estate developers, hotels, retail businesses and auto dealerships. The final repair regulations generally will apply to tax years beginning on or after January 1, 2014.

In an effort to reduce controversy between taxpayers and the IRS, the repair regulations are designed to help taxpayers distinguish a current deductible repair from a capital expense. However, the guidance contained under the repair regulations is complex.

Specifically, many taxpayers will be required to change their existing income tax accounting methods for various types of expenditures to comply with the final regulations. The effect of the accounting method changes may result in an immediate impact on taxable income. The IRS previously provided accounting method change procedures under the temporary regulations, and with the final regulations being released, we anticipate updated accounting method change guidance for the final regulations.

The final regulations adopt a revised and simplified de minimis rule by eliminating the ceiling rule and replacing it with a safe harbor to allow expensing only if the amount paid does not exceed $5,000 per invoice, or per item as substantiated by the invoice. However, the safe harbor was not expanded to taxpayers without audited financial statements. The final regulations did add a de minimis safe harbor for taxpayers without audited financials of $500 per invoice, or per item as substantiated by the invoice.

The final regulations also added a safe harbor to the rules governing improvements to buildings for qualifying small taxpayers—those with gross receipts of $10 million or less.

With the effective date of the regulations around the corner, taxpayers should begin preparing for the impact of the changes. All of these items directly impact taxpayers for the tax year 2014. It is important to consult with tax advisers on these issues and determine the effect it will have on the tax year for your business.

The designated economic development areas for tax incentives have been repealed. Effective January 1, 2014, legislature eliminated designated economic development areas such as enterprise zones (EZs), targeted tax areas (TTAs), manufacturing enhancement areas (MEAs) , and local agency military base recovery areas (LAMBRAs).

For businesses in the areas mentioned above, the new employment credit and sales and use tax exemption have replaced the geographic areas with new designated geographic areas (DGAs) to include: a former EZ or LAMBRA, newly created designated census tract, and designated areas of high unemployment.

The new employment credit, NEC, is 35% of qualified wages for the first 60 months of employment. The day of hire must be on or after January 1, 2014. The credit only applies to the net increase in jobs, not replacements. Qualified taxpayers are employers engaged in a trade or business within a DGA, with gross receipts of less than $2 million in a previous taxable year. Qualified full-time employees must perform at least 50% of their services for the employer within the DGA. Eligible employee wages must be at least $12 per hour and must be paid to those unemployed for 6 months. Veterans discharged within 12 months prior to hire also qualify.

Also, as of December 31, 2013 a taxpayer’s ability to claim a credit for sales and use tax has expired. No credit or exemption is allowed between January 1, 2014 and June 30, 2014. Governor Jerry Brown has signed legislation as part of his Economic Development Initiative to enact California sales and use tax exemption for purchases of manufacturing and research and development (R&D) equipment by biotechnology and manufacturing companies. Beginning July 1, 2014 qualified taxpayers may receive a 4.1875% sale and use tax exemption for a "qualified person's" qualified purchases in California. A carry forward period of 10 years is allowed for unused EZ sales and use tax credits beginning on or after January 1, 2014.

The new sales and use tax exemption is applicable to the gross receipts from the sale, storage, use, or other consumption in California of any of the following qualified tangible personal property: manufacturing, processing, refining, fabricating, or recycling of tangible personal property.

If you have questions or would like tax planning advice, please call our office (559) 432-2346.

DEFERRAL TECHNIQUES FOR FARMERS AND RANCHERS AFFECTED BY THE DROUGHT

by Tim Hancock, CPA

According to the National Drought Mitigation Center, as of September 16, 2014, over 58% of California is experiencing Exceptional Drought conditions and over 81% of California is facing an Extreme Drought, which are the highest and second highest categories on the drought intensity scale.

Farmers and ranchers are being affected by this drought in many ways including increased feed prices, cost of new and/or deeper wells, cost of damaged crops, and the impacts of fallowed land. As a farmer you may be receiving insurance proceeds for damaged crops caused by lack of water. As a rancher you may be selling an unusually high number of livestock due to the effects of the extended drought. These two circumstances may increase income which in turn creates a larger tax liability. However, there are elections available to defer this type of income to future years.

A cash method taxpayer who receives crop insurance proceeds in the same calendar year his crops were damaged and who establishes more than 50% of the crop income from the damaged crop would have been reported in the following year under normal business practice. The taxpayer is entitled to elect to include the insurance proceeds in the following year. If crop insurance proceeds are received in the year following production, they cannot be deferred another year. For example, if you received the crop insurance payment in January of 2015 for 2014 crop damage, you cannot elect to tax it in 2016. Using this election is a useful tool to lower your current year tax liability, manage your cash flow and reinvest in next year's crop.

If a taxpayer sells livestock due to a shortage of water, grazing, or other consequences of a drought, an election to postpone the payment of income tax on the taxable gain from the sale may be made. There are two separate and distinct tax treatments. For both options the only portion of the gain that can be deferred is the amount sold in excess of normal business practices. The first option would be to defer the gain for one year without buying replacement property if an area that was declared a disaster area by the federal government caused the sale of such livestock. The second option is to defer the gain on the sale of the excess livestock by purchasing replacement animals within two years. If the Federal Government designates your area as eligible for assistance, then you generally have four years to purchase similar replacement property. Under this option the basis in the new property is reduced by the associated gain.

As in any tax situation, each case and circumstance surrounding each year are unique. The important thing to remember is that options exist and that the election doesn't have to be made until the return is filed. Please contact our office to discuss how the elections will affect your tax return, (559) 432-2346.

BPF'S NEW IDENTITY & WEBSITE

BPF's new logo, introduced earlier this year, was designed to convey our culture—modern, approachable, sophisticated, energetic, collaborative and unique—and symbolize the strong connection between our firm, employees, clients, services, community and the future. As our identity and technology evolves, our dedication and commitment to our clients remains the same.

We are excited to announce the launch of our newly designed website located at the same address: *www.bpfcpa.com*. One of our main goals with the new site is to convey the BPF culture and to inform clients and visitors about who we are as a company. The new site welcomes visitors with a clean uncluttered design, bold colors, and images with featured and current content. It will be updated on a continual basis with financial announcements, new information, and our activities in the business sector and community. We encourage our clients and visitors to contact any of our staff through the website and sign up for our newsletters. You may follow us on Facebook and LinkedIn using the social media buttons. For brand image consistency, our website is a responsive design so you'll see essentially the same design optimized on your smartphone, tablet and desktop. We hope you like our new website. If you experience any problems or have any suggestions, please contact us at *mail@bpfcpa.com*.

HMC FARMS
2014 BPF AG BUSINESS AWARD RECIPIENT

Baker Peterson Franklin, Certified Public Accountants, is pleased to announce the recipient of the 2014 BPF Ag Business Award is HMC Farms of Kingsburg.

HMC Farms exemplifies a leading for-profit ag organization whose achievements and impact have significantly contributed to the ag industry and the Central Valley. The Baker Peterson Franklin Ag Business Award honors a for-profit service or product-related agribusiness or farming entity headquartered in the Central San Joaquin Valley. The award recipient is selected by a committee representing the local agribusiness industry and the BPF Ag Department. The past 18 recipients are: Gar Tootelian of Reedley, Sun-Maid Growers of California, Allied Grape Growers of Fresno, Fresno Equipment Company, Errotabere Ranches of Riverdale, Harris Farms of Coalinga, Borba Farms of Riverdale, National Raisin Co. of Fowler, Ballantine Produce Co. of Sanger, Woolf Enterprises of Fresno, Producers Dairy Foods of Fresno, P-R Farms of Clovis, J&L Vineyards of Fresno, Fowler Packing Company, Joseph Gallo Farms of Atwater, Wawona Frozen Foods of Clovis, Wilbur-Ellis Western Division, and Zacky Farms of Fresno.

Established in 1887, HMC Farms represents the best of our valley agricultural enterprises with thousands of acres and multiple packing houses. Under fourth generation farmer Harold McClarty's leadership, HMC Farms has grown into an international producer and distributor of tree fruit and table grapes. HMC Farms has had a significant impact on the industry – developing innovative packaging for tree fruit and grapes, implementing a plant health and nutritional program to promote employee wellness, providing employment that promotes invention and innovation for family and colleagues, and providing a sustainable working environment for labor.

Perhaps the most outstanding attribute of HMC Farms is its focus on community philanthropy. They donate one million pounds of fruit to the Community Food Bank annually. The McClarty family donated $10,000 to the Western Growers Foundation which awarded Oakland schools with funds for edible gardens to teach nutrition and healthy food to elementary students. The McClarty family donated $1 million to Reedley College for a new Fine & Performing Arts facility. This gift is the largest alumni contribution in the school's history and will help revive classes suffering from recession-induced budget cuts. Harold McClarty has personally given his service to several boards including State Center Community College District, UC Davis Foundation, Western Growers and California Fresh Fruit.

HMC Farms has a distinguished record of positive leadership, entrepreneurship, and service to the agriculture industry and our community making them the 2014 Baker Peterson Franklin Ag Business Award recipient.

Chelsea McClarty Ketelsen, Harold McClarty, Jon McClarty

2014 AG AWARDS LUNCHEON

Honoring BPF Ag Business Award – HMC Farms

Fresno Chamber's Agriculturist of the Year – John Harris

HMC Farms and John Harris of Harris Farms will be honored at the Ag Awards Luncheon on Wednesday, October 29, 11:30 – 12:00 check in, 12:00 – 1:30 p.m. luncheon & program, at TorNino's in Fresno. The Baker Peterson Franklin Ag Business Award and the Fresno Chamber of Commerce Agriculturist of the Year will both be presented.

You may register at www.fresnochamber.com or call (559) 495-4800. Members: $40 ticket and $320 for tables of eight. Non-members: $55 ticket and $440 for table of eight.

bpf AG BUSINESS AWARD 2014

YOU'RE GOING TO MAKE IT THROUGH 2014...BUT WHAT ABOUT NEXT YEAR?

by Riley C. Walter

All eyes are focused on the skies and slopes and El Niño reports, as they should be. Producers are understandably worried and fearful about not having enough ground and surface water to get through 2014. Much energy and emotion is being committed to conserve water and gain supplies. The drought wars are near a fevered pitch.

However, what thought is being given to 2015? Many producers have planned for and can survive 2014 but, dread the thought, what about next year?

While we all hope and pray that your disaster plan does not have to be executed for 2015, you have to have a disaster plan. You do, right?

I am not talking about a cropping, planting, irrigation plan. I am talking about a financial disaster plan.

Below are ten things that you may want to consider as you look at El Niño maps for 2015. These points are not in order of priority, and there are undoubtedly many others that weigh on your mind.

1. Who has title to your assets? Are all your assets titled where they should be? Are assets held in an old entity or capacity and have not been put where they actually belong?

2. Who are you dealing with? Keep in mind that when producers face risks, so do the related processors. Are you dealing with solid buyers? Let's all remember the Tri Valley bankruptcy. Do you know the financial condition of your buyers? Are they really, really solid?

3. Is all your cash in your lender bank? Is it required to be held there? If not, is this wise?

4. Remember the past. I recall 1985. Times were tough then, too. Some of the lenders kept telling growers to keep pruning, preparing, etc. while we get crop budgets approved. Approvals were delayed and delayed. Around March 15, after much money had been expended and growers owed a lot to trade suppliers, those banks said, "We will lend for this year, but you cannot pay any unsecured creditor already existing and we want a lien on all of your assets." Could this happen again? Trade creditors need to heed this lesson as well. Do trade creditors know the strength of their customers?

5. Do you really know which debts you have personally guaranteed? Can/should you withdraw your guarantee? Are there major unencumbered assets?

6. Are there really important assets, like title to your mother's house, that should not be held in your name? If financial disaster strikes, are there important assets you hold or control that need to be put back elsewhere in a legitimate way?

7. Is your documentation pristine? This is especially true of paperwork involving insiders. Did you borrow from your kids' trusts? Is it papered? Do you owe Aunt Jane money? Is it documented? Did you put off to tomorrow any important paper work?

8. Are your assets cross-collateralized so as to make a disaster plan hard to execute? Is there anything you can do about it? If it gets really bad, what can you give back to a lender but keep your core operation?

9. What about taxes? In the last major farm disaster I saw many instances where the producer had low basis assets that had to be sold (or foreclosed upon) generating huge nondischargeable tax consequences. All the sale proceeds went to a lender, and the producer was left with huge tax debts. Consider reviewing this with your tax adviser. If you must have a shrink down plan, you really need to know the tax consequences to develop that plan.

10. Are all of your financial and legal records up to date? Do not put this off. In a disaster, it is all the more important to have all financial records completely up to date and accurate. One of the most common mistakes made is to reduce bookkeeping assistance in a time of crisis. More information is required, not less.

I don't want to over emphasize doom and gloom.However, my long experience dealing with agricultural problem loans causes me to warn against the usual optimism of farmers and ranchers.While I sincerely hope that execution of disaster plans is not necessary, wouldn't you rather be safe than sorry?

Based on past experience, it may be a good idea to get a "financial checkup" early so you know what is protected and what is at risk.

As has long been said, to have peace, prepare for war.

Reprinted with permission by Riley C. Walter of Walter & Wilhelm Law Group in Fresno, CA.

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CALENDAR

OCT. 15 Deadline to file individual income tax returns on extension.

OCT. 23 Ag Lenders Society of California Annual Golf Tournament at Fort Washington Country Club. Visit *www.aglenders.org* for information.

OCT. 24 Jordan College of Agricultural Sciences and Technology Alumni & Friends Wine Tasting, Fresno State Winery. For reservation information, call 559-278-4266.

OCT. 25 San Joaquin Valley Winegrowers Association Fall Wine Cornucopia. Visit *www.idrinkwine.net* for information.

OCT. 29 Ag Awards Luncheon honoring 2014 BPF Ag Business Award & Fresno Chamber of Commerce Agriculturalist of the Year recipients at TorNino's. For more information, call the Chamber at 559-495-4800.

NOV. 27-28 Thanksgiving (observed). BPF office closed.

DEC. 25-26 Christmas (observed). BPF office closed.

JAN. 1-2 New Year's (observed). BPF office closed.

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