



It means a lot of new planning can be created and a lot of old planning may no longer be relevant. For example:

1. Before, when selling your business, if you kept any of your stock back the entire transaction was not allowed capital gains treatment: you were taxed as a dividend at regular income tax rates, sometimes double taxed. Now, with capital gains reduced, you can sell part of your stock, keep the rest, and still enjoy the lower capital gains rate on the stock you sold. This means you can keep part of your company while selling part and enjoy both some cash in hand and a piece of the future...without paying a huge tax penalty. And, remember, you get to deduct from your capital gains of the stock sold your original basis...giving you an additional benefit over the previous method of "consulting" agreements that simply paid you regular income as part of the consideration for the sale of your business. Brave New World.

2. S corporation Status deserves a second look. Most people will still want to keep that status because once one adds up the various tax benefits, S still beats C...but remember that now dividends have been lowered in tax rate so the differential is no longer as significant and other reasons, relating to the individual tax differences of the various owners, may be enough to make people rethink whether to keep S status.

3. Estate Tax ramifications: Under the law, Section 303 redemptions (stock sold to pay estate taxes) are no longer treated as constructive dividends but as sale of stock (thus capital gains) and the stepped up basis thus allowed may be a boon for the next generation.

4. Buying new equipment may make good sense due to the nearly doubling of first year depreciation and write-offs of new equipment described above. With very low interest rates, this is a combination that makes buying that new computer system very attractive for many.

5. Above all, income from passive investments now has a massive tax advantage over earned income...15% versus 35% or more...and the delaying of capital gains for years (not selling such assets in an effort to avoid the capital gains) is no longer as necessary. Now may very well be the time to make those various sales that you have been pondering for so many years.

BUT BE CAREFUL...THERE ARE SOME PROBLEMS IN THE NEW LAW.



You will need good professional advice from your CPA and perhaps attorney before taking steps relying on the new law. There are some details that could trip you up.

For instance, if you are a professional corporation, your tax rate stays a flat 35% thus Sub S status remains a must.

For instance, while the Estate Tax is being reduced to zero in 2010...it leaps back up to 55% in 2011. You have to have a flexible plan which takes into account the bald fact that Congress will have to do something in the medium term future to radically alter that odd situation. See *our*

newsletter from August 2001 (on this website still) on the new tax law of 2001.

For instance, corporations do NOT have this preferential capital gains treatment. All gains are regular income. Thus how to get those gains to the individual stock holders is another task your planners will need to help you accomplish.

And, above all, this entire new program is only the beginning. The President promises more...Congress is iffy on whether that will happen. We have a deficit exploding and an economy teetering though whether it will fall to greater prosperity or a deeper recession is anybody's guess. Real estate continues to be the one bright spot but the entire thrust of the new tax laws is to reinvigorate business and capital investment...One thing is certain...the state of the economy will directly effect what the next round of the tax wars will be. Stay tuned...and call your CPA and attorney for planning right now!