STATE OF THE INDUSTRY

TAX PLANNING IDEAS FOR THE NEW YEAR: PART TWO

OTA OHIO TRUCKING ASSOCIATION

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TAX PLANNING IDEAS FOR THE NEW YEAR FOR THE TRANSPORTATION INDUSTRY

This whitepaper is the second in a two-part series recapping several ideas your trucking company can implement now for either 2023 or 2024.

Cost Segregation Studies

What is a Cost Segregation Study?

For taxpayers who own real estate, cost segregation studies can be a beneficial way to defer tax and keep more cash in the business. If you purchased or improved a building, it's worthwhile to consider a cost segregation study. Under IRS rules, non-residential buildings are typically depreciated over 39 years. When a cost segregation study is completed, an engineer will analyze the components of the building and carve out shorter-lived assets that qualify for 5-, 7- or 15-year depreciation periods. Shorter tax lived assets help taxpayers accelerate depreciation expense and ultimately decrease potential tax liabilities.

Bonus Depreciation

The Tax Cuts and Jobs Act (TCJA) that was passed in December 2017 included enhanced bonus depreciation provisions. For assets placed in service between September 28, 2017, and December 31, 2022, shorter-lived assets were eligible for 100% bonus – or full expensing in the first year. The TCJA bonus depreciation rates decrease 20% each year through 2026 as follows:

- January 1, 2023, through December 31, 2023 – 80% Bonus Depreciation
- January 1, 2024, through December 31, 2024 – 60% Bonus Depreciation
- January 1, 2025, through December 31, 2025 – 40% Bonus Depreciation
- January 1, 2026, through December 31, 2026 – 20% Bonus Depreciation

The above information is the law as it stands today. As we go to print, there is a proposal agreed to by the House and Senate tax writing committees that may extend the 100% to 2023 -2025.

Let's consider an example to illustrate the benefits of a cost segregation study if a taxpayer purchased a new warehouse for $2,000,000. Without a cost segregation study to breakout the different components of the building, the maximum tax deduction in the first year would be around $51,000. If the same taxpayer were to have a cost segregation study completed on the $2,000,000 spend, the engineer may identify that 10% relates to 5-year personal property assets ($200,000) and 30% relates to 15-year land improvements ($600,000). Under the bonus depreciation rules for the 2024 tax year, the 5- and 15-year assets are eligible for accelerated expensing. The $800,000 total that was broken out could result in $480,000 of bonus depreciation – an additional $429,000 in tax deductions. If we estimate a 30% federal tax rate, the potential tax savings in Year 1 would be close to $129,000 in this example.

Typically, the benefit greatly outweighs the cost of completing a cost segregation study, but it is important to consult with a tax advisor if you have purchased, improved or constructed real property.

2024 Emerging State and Local Tax Issues for the Transportation Industry

For many companies and organizations, state and local taxes represent the majority of their overall tax burden. This is especially pertinent to those organizations in the transportation industry, who have employees and equipment constantly crossing state borders via our highways, potentially incurring unforeseen liabilities, leading to tax exposure along with interest and penalties. As a result, businesses must stay focused on the changing landscape of their state and local tax obligations.

Identified below are some emerging issues in state and local taxation your organization should be aware of.

Ohio Commercial Activity Tax (CAT) Changes in 2024

Ohio enacted H.B. 33 on July 4, 2023, which made changes to Ohio's Commercial Activity Tax ("CAT"). The Ohio CAT is an annual tax imposed on the privilege of doing business in Ohio and is measured by taxable gross receipts in the state. For tax periods beginning in 2024, taxable gross receipts of $3 million or less will be excluded from the tax base, an increase from the previous $1 million dollar exclusion in previous tax years. For tax periods beginning in 2025, the exclusion amount will be raised to $6 million. Businesses with taxable gross receipts exceeding the exemption amount will pay the tax at the current existing CAT rate of 0.26%. Additionally, the annual filing requirement and annual minimum tax (AMT) will be eliminated. As a result, a large majority of taxpayers will not owe CAT and can cancel their accounts if they expect Ohio taxable gross receipts below the updated exclusion amounts.

Transportation businesses with activity in Ohio should be aware of potential CAT filing and payment obligations. The CAT applies to all entities regardless of form and whether the business is located inside or outside the state. Transportation entities with contracts that include trucks traveling through Ohio are subject to the OH CAT based on the percentage of contract miles traveled in Ohio. This percentage of the contract is apportioned to Ohio to determine CAT liability. However, entities will not have a filing or tax obligation until they exceed $3 million of transportation contracts apportioned to Ohio in 2024 and $6 million in 2025.

Massachusetts Says Rolling Stock is Subject to Use Tax After Six Days

On March 23, 2023, the Massachusetts Department of Revenue issued Directive 23-1: Use Tax Applied to the Sale of Rolling Stock; De Minimis Standard which outlines the conditions for a de minimis exception where rolling stock stored or used within the state will not be subject to Massachusetts Use Tax. The Directive provides that the use of rolling stock that is owned or leased by a taxpayer will be exempt from use tax if the property is used or stored in the state for no more than six days during a 12-month period, confirming that any period longer than that creates a use tax obligation. A credit against the Massachusetts Use Tax is allowed if the taxpayer has paid a sales tax legally due to another state and that state allows a corresponding credit for sales or use tax paid to Massachusetts.

In terms of documentation, the Directive urges companies to be able to "demonstrate the frequency with which rolling stock was used or stored in Massachusetts through sufficient records that show the dates of travel into and in Massachusetts, such as GPS logs." The burden is on the taxpayer to produce adequate records to demonstrate that rolling stock was used or stored in Massachusetts below the de minimis standard upon audit.

Currently, over 30 states have no sales or use tax on rolling stock, including neighboring New England states. Massachusetts lawmakers have continuously proposed bills to enact a rolling stock tax exemption for the Massachusetts sales and use tax. However, the legislation is still pending, and no exemption currently exists. Proponents of rolling stock exemptions argue the exemption will support the growth of the transportation industry and encourage updates for cleaner, safer commercial vehicles.

Elective Pass-Through Entity Taxes and the SALT Cap

States continue to adopt elective pass-through entity taxes (PTETs) to counter the $10,000 federal state and local tax (SALT) deduction cap. PTETs allow a pass-through entity to turn off their flow-through nature for taxation and rather pay state tax at the entity level, with either credits or exclusions passed to the entity owners to offset their state personal income tax liability. PTETs have been blessed by the IRS under Notice 2020-75 as a SALT cap workaround, resulting in thirty-six states enacting PTETs with three more states having a version of a PTET pending in their legislatures.

PTETs vary by state and require extensive consulting and modeling to determine if they are advantageous for the entity. Concerns with making the PTET election include double taxation at the owner level, combined filing requirements, confirming credits and deductions are available for owners and additional accounting considerations for entities and individual owners. Transportation companies with multistate tax exposure are prime candidates for PTET review and should consult with their tax advisors before making PTET elections in any tax jurisdictions they currently do business in.

Tax Credits: An Energy Efficient Incentive

With a push for electric and alternative fuel transportation on the rise, an incentive of tax credits is being used to help achieve this tall task. We will review several of the credits below.

The Alternative Fuel Vehicle Refueling Property Credit allows for a tax credit for refueling property placed in service before January 1, 2033. The property must store or dispense clean burning fuel that contains at least 85% ethanol, natural gas, compressed natural gas, liquified natural gas, liquefied petroleum gas or hydrogen. In addition, the property can also include electricity and any mixture that contains at least 20% biodiesel. The tax credit is 30% of the cost subject to limitations. For projects that do not meet certain requirements, the credit is reduced to 6%. The property must be installed in a low income or non-urban area as according to the census tract.

The Investment tax credit is available to businesses that use certain energy property such as solar property, wind energy and geothermal for heating and cooling, among other types. Projects must be started prior to January 1, 2025, or January 1, 2035, in the case of geothermal. This credit is generally 6% but can be 30% if certain requirements are met. In addition, there are “bonus credits” available as an incentive to use domestic materials and placing the property in certain energy communities. These communities include brownfield site locations, areas that have tax revenues related to fossil fuels and have unemployment rates above the national average and, lastly, areas that have had a coal mine closed or coal generating unit retired.

In addition to the tax credits, the taxpayer can still claim depreciation on the property (limited based on the credit) over the course of 5 years and claim an additional first year bonus amount depending on the year the property was placed in service.

The Commercial Clean Vehicle Credit is available for Vehicles on public roads and used in business. There are limitations to the credit per vehicle, but it can be up to $7,500 on vehicles with a gross vehicle weight ratings (GVWRs) under 14,000 pounds and up to $40,000 for all other vehicles. The Vehicles must be made by a qualified manufacturer, used in business not for resale and primarily used in the United States. The vehicle must draw propulsion from an electric motor with a battery capacity of 7 kilowatt hours for a GVWRs of under 14,000 pounds and at least 15 Kilowatt hours if the GVWR is over 14,000 pounds. If not electric, the vehicle must meet the requirements of "new qualified fuel cell motor vehicle" that uses a combination of oxygen and hydrogen.

As these energy credits continue to evolve and more information becomes available, it is important to talk to your tax advisor if you have or planning to purchase or build any energy efficient projects.

We hope this two-part series has been informative and helpful to your transportation business. Please contact us at contactsd@schneiderdowns.com if you have any further questions.

Ohio Trucking Association

The Ohio Trucking Association is a 100-year-old full-service trade association operating in Columbus, Ohio. With over 815 total members in the trucking, logistics, warehousing and moving industries, our promise to our members is simple: the Ohio Trucking Association will work to improve operational efficiency, profitability and relevancy for all of Ohio's transportation industry. Advocacy, professional development, networking and cost savings initiatives are the keys to carrying out this promise to our members. No matter what the cause, our industry is stronger when operating as one. We encourage you to explore more about becoming involved with the Ohio Trucking Association at **www.joinota.com**.

Thomas A. Balzer, CAE
President & CEO
(614) 653-0290
tom@ohiotrucking.org

Bradie Berry
Vice President
(614) 519-6462
bradie@ohiotrucking.org

Donna Taylor
Director of Communications
(718) 954-0725
donna@ohiotrucking.org

Della Hole
Office Manager
(614) 753-5125
della@ohiotrucking.org

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More than 25 years ago, we established the Schneider Downs Transportation and Logistics Industry Group. The group includes assurance, tax, technology and management consulting professionals who combine their individual expertise to serve our wide range of transportation and logistics clients—from local carriers to national enterprises, including: trucking, general freight, flatbed and box, TL, LTL, tank waste brokerage, bulk commodity dump, 3PL, heavy hauling/permitted loads, moving and warehousing. The Transportation and Logistics Industry Group meets on a regular basis to review and analyze issues central to this industry. As a result, our transportation and logistics professionals possess the most current knowledge of transportation issues, regulations and trends. We work with you to seek innovative ways to reach your strategic goals.

Carl D. Scharf, CPA
Shareholder, Tax Services
(614) 586-7139
cscharf@schneiderdowns.com

Matthew C. Werner, CPA
Shareholder, Tax Services
(412) 697-5403
mwerner@schneiderdowns.com

To see more of our whitepapers, please visit
https://www.schneiderdowns.com/transportation-logistics-resources

OTA OHIO TRUCKING ASSOCIATION

655 Cooper Road
Westerville, OH 43081

SCHNEIDER DOWNS
Big Thinking. Personal Focus.

65 East State Street
Suite 2000
Columbus, OH 43215