

Transition Tax Planning Issues

September 20, 2017

Over the years, you have heard me caution you about mischaracterizing team members as independent contractors, when they are (most of the time) employees.

The IRS recently released an order that requires its audit staff to sharpen its focus on the issue of misclassification of employees.

As I have said in the past, the IRS (and thus the U.S.) gets about 85% of its revenue from payroll taxes. This means that the IRS devotes a disproportionate amount of its enforcement effort to policing this area.

I just wanted you to know that while my admonishments of the past may have been taken lightly; the IRS is NOT taking it lightly!

Call us if you would like to discuss your situation; or if you are unclear on whether you might have a valid IC situation.

Another issue which has reared its head, is the ability of S Corps to avoid payment of self-employment taxes (Social Security and Medicare Taxes) by the owner. This is one of the reasons that many of my colleagues in accounting and the tax bar like to advise that your PLLC should elect to be taxed as an S Corp.

I have always felt that it is better to be treated as a partnership and that these tax savings are pretty minimal; especially when considering the complexities (and costs) that it involves when transitioning in a partner.

However, I don't second guess these decisions and we are able to work around the whole S Corp Election issue.

I only bring this issue up, because this is another area to which the IRS is giving renewed attention.

This "loophole", for S Corps to avoid having to pay self-employment tax for the owner, is being targeted by the Treasury Department for amendment.

I am not suggesting that you fight your tax advisor. This advice is still good.

But it's not a panacea and it may be changing soon.

This is simply another reminder that tax planning needs to be viewed in a strategic way and not just for the current year savings.

We need to emphasize the term “planning”.

Make sure that these tax planning decisions also embrace the very likely transition plans of the future.

This is where the tax planner and the transition planner need to come together.