Testimony

Pennsylvania Business Climate Policy Hearing

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Pennsylvania business tax policy

Brief introduction of our firm – SEK & Co is a regional CPA firm with offices in Hagerstown, MD and Chambersburg, Carlisle, Camp Hill and Hanover, PA. We have a staff of approximately 150 professionals and serve business and individual clients in our respective markets, mainly in Franklin, Adams, York, Dauphin, Cumberland and Lancaster Counties in Pennsylvania. Business clients range from sole proprietors to large Multi-state corporations, sized from start-ups to concerns with >$100M in annual sales.

Corporate net income tax – The CNI tax is among the United States highest business level tax rates. The tax rate of essentially 10% (9.99%) is the highest in the land on the first tier of corporate profits, and the rate is second only to Iowa whose rate is 10% until a corporation reaches $250K in net income, then Iowa applies a 12% rate.

This relatively high tax on corporate profits lands the State of PA a 46/50 ranking by the Tax Foundation for the State Tax Climate's corporation tax ranking. Overall when considering Pa's personal income tax, Sales tax, Unemployment Ins tax, and Property tax the overall State ranking moves to 34 (Taxfoundation.org 2015 State Business Tax Climate Index).

Considerations for policy changes to CNI

- 15 States have tiered tax structures where first dollar income is taxed at lower rates
    - Consider implementing a tiered structure to make small business more attractive
- Consider reducing the CNI rate – the average rate across the country is between 6%-7%

Capital Stock tax repeal – In 2000, 15 years ago, the CST was scheduled for elimination by 2008. The phase-out was delayed 4 times in the past 13 years extending the tax to its 12/31/2015 expiration.

The last phase of the extension/delay of the phase-out has whittled away at the CST rate from .89 mills in 2013, to .67 mills in 2014, and .45 mills in 2015.

Considerations for policymakers

- We urge policymakers to allow the tax to phase out

Loans tax repeal – This tax was repealed effective 1/1/2014, only report raising $9-$10M annually.

Considerations for policymakers

- With the abolishment of CST and Loans tax we urge the State to streamline and simplify the tax forms

Conformity with Federal Depreciation laws

Section 179 expensing

Discuss Section 179 basically – Federal provision which allows for the expensing of equipment and certain leasehold purchases in the year purchased instead of requiring the spreading of the deductions over the equipment's useful life.

12 States DO NOT follow Federal rules with regard to section 179 expensing elections effectively putting their small businesses at a competitive disadvantage.

Pennsylvania follows Federal rules for C Corporations but limits 179 deductions for S Corporations, Partnerships and Individuals to $25,000.

The reality is that 179 deductions are 100% timing, therefore the added complication for business owners and the State is questionable.

Bonus Depreciation

Bonus depreciation in a nutshell…….partial immediate deduction without purchase limits or ceiling on amount available to expense…….in essence, allowing a business to deduct a portion of an assets cost immediately, and then depreciating the remaining cost over the normal useful life.

Pennsylvania has waffled on bonus adoption making tracking and reconciling depreciation almost impossible, beginning with not conforming with Federal law, continuing its non-conformance without changing its own law to logically non-conform; following Federal law for 1 year and 4 months (Sept 8, 2010 to Dec 31, 2011), then nonconformity again presently.

Considerations for policymakers

- Conform to Federal law, regardless of how dysfunctional our Federal government may be, it is a substantial burden to corporate taxpayers to maintain multiple depreciation schedules, especially where multiple states have differing rules.
- When I sit across the dinner table and explain the logic and differences between state law in rates, apportionment, NOL rules, pass-through allowances, and depreciation allowances, my college accounting major looks at me and comments on how dysfunctional our countries tax system.
- Consider being a leader in moving to a more standard tax law across State boundaries to reduce the burden on taxpayers.

Pass-through Losses

Pennsylvania individual tax structure taxes income from all sources (certain exclusions like pension income) but prohibits the netting of one type of income with a loss from a different type of income. In addition, if a taxpayer is an owner of a pass-through business, and that is the owner's only business concern the losses pass-through to the individual and are effectively lost on that taxpayer's individual return.

Considerations for policymakers

- Consider supporting a change in PA law that allows the business concern to elect to carryover the loss to the following year.
    - This would allow small businesses to offset losses in one year with income in the following year, without having to change PA personal income tax law.
- Consider a wider fix, whereby individuals could net income from one source with losses from another – taller order.

Final comment

Quoting from a September 8, 2014 letter from the Pennsylvania Chamber of Business and Industry to the U.S. House member Lou Barletta, Gene Barr wrote "In each of the past three years, Pennsylvania has ranked close to the bottom in several cost of doing business assessments. In 2012, the Tax Foundation and KPMG issued a report (Location Matters) citing our State as the most expensive in the nation for employers; in 2013, Forbes ranked Pennsylvania 39th in business costs (Best States for Business and Careers); and most recently, in 2014 CNBC placed Pennsylvania 42nd in cost of doing business (America's Top States for Business).

Those rankings speak for themselves, thank you for your time and consideration.