



January 2011

How Will Your Exit Be Impacted By the Extension of the Bush Tax Cuts?

Fact: You will leave your business one day

Just before the close of 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the Act). The Act centers on a temporary, two-year reprieve from the sunset provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), together known as the "Bush tax cuts"*. The big question is, how will the extension of these tax cuts impact your potential exit from your business?

Let's first take a look at an area near and dear to every owner's hearts – taxes. Note that your exit transaction will be taxed at a certain rate. If you are able to sell stock in your business, the capital gains tax will [most likely] apply. Therefore, the extension of the 15% capital gains tax rate is meaningful for exiting owners but creates a 2-year window without much visibility beyond.

Capital Gains/Dividends Tax Rates

The Act extended the current maximum tax rate for qualified long-term capital gains and dividends (i.e., 15 percent for most taxpayers, and zero percent for taxpayers in the 10-15 percent tax brackets) through December 31, 2012. Therefore, we have only a window of certainty on how long capital gains taxes will remain at the current rate.

In the absence of a resounding Republican victory in the House in November, the consensus had been that the Bush Tax Cuts would expire and/or be modified upward. Many speculated that the 15% capital gains tax rate would never be seen again given our rising national debt and eroding tax base.

Now that the window has been extended, perhaps you should think about exit planning over the next two (2) years and whether or not that is a reasonable amount of time within which to plan and execute your exit. If so, you could be the beneficiary of these historically low rates without the uncertainty of future changes.

Individual Income Tax Rates

The Act also extends all individual income tax rates at their 2010 levels for two additional years through December 31, 2012. Under EGTRRA, the rates were originally scheduled to revert to pre-2001 levels beginning January 1, 2011. The 35-percent tax bracket will continue to be the top rate.

This is more good news for owners as the Bush Tax Cuts for income taxes will remain where they were at the end of 2010. But, once again, how much longer will this continue?

Throughout 2010 a number of exiting owners were expressing an interest in actually drawing income from their retirement plans (without being subject to the penalty for being under 59½ years of age) to ‘capture’ the existing tax rate. This was out of concern for where the personal income tax rate was heading.

Beyond taxation of income and sales of stock while you are living, the estate taxes were also impacted in a manner that could affect your total exit planning.

Increases to Estate Tax Limits

For business owners, regardless of what stage of your business exit you are in, **it is vital that you update your estate plan so you can be certain that your wealth is protected from excessive and unnecessary taxation.** Under the provisions of the Economic Growth and Tax Reconciliation Act of 2001 (EGTRRA), the estate tax was repealed during 2009 and was scheduled to return in 2011 at a significant rate of 55% with a \$1 million exemption. With the extension of the tax cuts, it has returned as planned but with a top rate of 35%, instead of 55%, and an increased exemption of \$5 million per person/\$10 million per couple. This exemption does not include the \$1 million individuals can give away without paying a gift tax.**

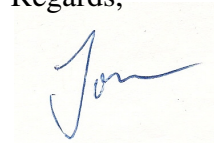
Business owners often neglect to include the full value of their business in their estate and estate tax planning. The new limit for estate taxes increases the amount that can pass without [federal] estate taxation to \$10 million (for a married couple, \$5 million individually). This is a welcome change as an exemption of only \$1 million per person, or \$2 million per married couple, would have exposed many, many more business owners to estate tax, and put a lot more wealth at risk of being taxed.

The move to a \$5 million exemption amount was a welcome surprise and will assist in preventing many business owners’ wealth from being lost to taxes. Remember, however, that careful planning should still occur to see that all of your assets and other estate planning documents are in order and titled properly. **Part of our exit planning process includes your spending some quality time with your estate lawyer to ensure you are protected.**

Concluding Thoughts

The extension of the Bush Tax Cuts in December of 2010 should be remembered by most owners as a call to action to start your planning for your exit sooner rather than later. If we have learned anything in the past few years it is that future events are highly unpredictable and a lot of your wealth is at stake if you do not do this level of planning. Working with a professional exit planner such as Owner's Edge along with your team of advisors, can help ensure the exit from your business is structured and executed to successfully protect your wealth from excessive taxation and leave you and your heirs with the legacy that is deserved after a lifetime of success in business.

Regards,



Tom Stocker
Managing Director
Owner's Edge, LLC
(401) 451-9799
tstocker@OwnersEdgeLLC.com

Content provided by Pinnacle Equity Solutions © All rights reserved

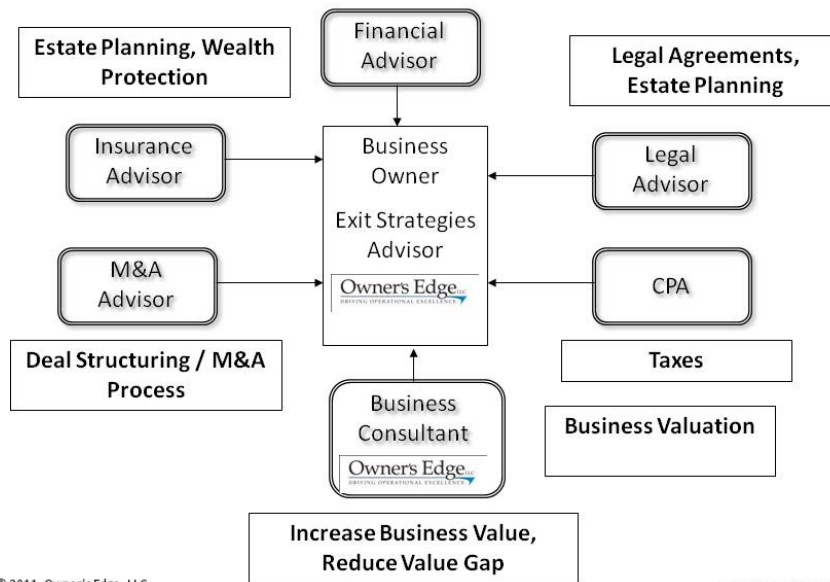
Our Commitment to our Customers

Owner's Edge uses our client-owners' vision to create solid strategies to capitalize on opportunities and address systemic problems to make their profits sustainable and their business transferable. This creates true and meaningful value.

About Owner's Edge

Owner's Edge is a business advisory and consulting firm specializing in helping business owners work on their businesses by devising and implementing strategies to drive operational excellence every day. We are one of the few advisor firms that can provide a formal and comprehensive Transition Planning service for business owners. Call us for a no-obligation consultation today.

Your Transition Advisory Team



A professional exit planner such as Owner's Edge can lead your trusted Transition Advisory Team already in place. Don't try to go it alone! Turn to the professionals at Owner's Edge to ensure your transition plan is structured and executed to leave your business on your terms.

Do you find it more convenient to use email? To receive our "The Edge Transition Planning Newsletter" by email instead of US Mail, please drop us an email. We will be happy to convert your delivery to our electronic version.