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2020 Fall Tax Planning Topics

**Presented by Rob Holcomb,
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NDSU Tax Webinar
December 1, 2020**

Agenda

- Meals and Entertainment
- Qualified Business Income (199A) and the new 1099-PATR
- PPP and EIDL Loans/Advances – Taxability and Forgiveness
- Tax Planning for 2020

Meals and Entertainment

- When is the employer deduction limited to 50% of cost?
- When is the value of the meals or lodging excluded from the employee's income?

De Minimis fringe benefit rule

- Employee is not taxed
- Employer deducts 50% of cost
- Applies to
 - Coffee, tea, snacks or soft drinks in the breakroom
 - Occasional meals or meal money when working overtime
 - Occasional parties or picnics for employees and their guests



Employer-operated eating facility

- De Minimis exclusion applies if revenue covers costs
- Cannot discriminate for highly compensated employees
- Must meet 4 conditions (next slide)
- Only 50% of costs are currently deductible
- Deduction eliminated after 12/31/2025



Employer-operated eating facility

- Conditions for employer-operated eating facility
 - Employer owns or leases the facility
 - Employer operates the facility
 - Facility located on or near business premises
 - Meals furnished at the facility are provided during, or immediately before or after, the employee's work day



Employer convenience

- During, or immediately before or after employee's working hours
- Available for emergency calls
- Nature of business restricts a meal break
- Insufficient eating facilities near the workplace
- After work due to employee's work duties

Lodging for employees

- Employer can deduct ordinary and necessary business expenses
- Employee may exclude from income if:
 - ✓ Furnished on business premises
 - ✓ For employer's convenience
 - ✓ Required as a condition of employment
- Included necessary utilities to make lodging habitable
 - Unless employee contracts and purchases directly

Other considerations

- If not excluded from income
 - Noncash wage – add to W-2, Box 1
 - Not subject to FICA or FUTA for Ag Labor – not in W-2, Box 3 or 5
- A 5% partner was held to be an employee eligible for tax-free lodging
- C corporation
 - S/H employees are eligible
 - C corporation must own or lease the lodging (trade-offs)
- 2% or greater S corp S/H employees ineligible



Substantiation

- Substantiate business reasons for meals and lodging
- Based on facts and circumstances
- Best practices:
 - Employer manual
 - Employment contract
 - Written policy (communicated and followed)
 - Records of emergencies, weather and harvest conditions

I.R.C. § 199A Deductions for Patrons of Agricultural Cooperatives

- TCJA made significant changes to the tax code: QBID
- The Consolidated Appropriations Act of 2018 repealed and corrected the grain glitch.
 - 1099A(g)

Two Deductions for Patrons

- I.R.C. § 199A(a) 20% QBI deduction
- I.R.C. § 199A(g) DPAD which is passed through to farmers/producers by the Cooperative
- Transition Rule...for 2018



Form 1099-PATR

FIGURE 9.1 – Form 1099-PATR

9797 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED				OMB No. 1545-0118		Taxable Distributions Received From Cooperatives
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Patronage dividends	\$ 20,000	2020 (Rev. February 2020) Form 1099-PATR		
		2 Nonpatronage distributions	\$			
		3 Per-unit retain allocations	\$ 80,000			
PAYER'S TIN	RECIPIENT'S TIN	4 Federal income tax withheld	\$	5 Redeemed nonqualified notices	\$	Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2020 General Instructions for Certain Information Returns.
RECIPIENT'S name		6 Section 199A(g) deduction	\$ 8,000	7 Qualified payments (Section 199A(b)(7))	\$ 100,000	
Street address (including apt. no.)		8 Section 199A(a) qual. items	\$ 100,000	9 Section 199A(a) SSTB items	\$	
City or town, state or province, country, and ZIP or foreign postal code		10 Investment credit	\$	11 Work opportunity credit	\$	
Account number (see instructions)	2nd TIN not <input type="checkbox"/>	12 Other credits and deductions	\$	13 Specified Coop <input type="checkbox"/>		
Form 1099-PATR (Rev. February 2020)		Cat. No. 14435F	www.irs.gov/Form1099PATR		Department of the Treasury - Internal Revenue Service	
Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page						

1099- PATR Boxes

- Box One: Patronage Dividends
- Box Three: Per-Unit Allocations
- Box Six: Section 199A(g) Deduction
- Box Seven: Qualified Payments
- Box Eight: Section 199A(a) Qualified Items



Schedule F reporting

FIGURE 9.2 – Schedule F Reporting

Part I Farm Income—Cash Method. Complete Parts I and II. (Accrual method. Complete Parts II and III, and Part I, line 9.)				
1a	Sales of livestock and other resale items (see instructions)		1a	
b	Cost or other basis of livestock or other items reported on line 1a		1b	
c	Subtract line 1b from line 1a		1c	
2	Sales of livestock, produce, grains, and other products you raised		2	
3a	Cooperative distributions (Form(s) 1099-PATR)	3a	100,000	3b Taxable amount
4a	Agricultural program payments (see instructions)	4a		4b Taxable amount
5a	Commodity Credit Corporation (CCC) loans reported under election		5a	



Form 8995-A, Part IV

corresponding trade or business		26		
Part IV Determine Your Qualified Business Income Deduction				
27	Total qualified business income component from all qualified trades, businesses, or aggregations. Enter the amount from line 16	27		
28	Qualified REIT dividends and publicly traded partnership (PTP) income or (loss). See instructions	28		
29	Qualified REIT dividends and PTP (loss) carryforward from prior years	29	()	
30	Total qualified REIT dividends and PTP income. Combine lines 28 and 29. If less than zero, enter -0-	30		
31	REIT and PTP component. Multiply line 30 by 20% (0.20)	31		
32	Qualified business income deduction before the income limitation. Add lines 27 and 31 ▶	32		
33	Taxable income before qualified business income deduction	33		
34	Net capital gain. See instructions	34		
35	Subtract line 34 from line 33. If zero or less, enter -0-	35		
36	Income limitation. Multiply line 35 by 20% (0.20)	36		
37	Qualified business income deduction before the domestic production activities deduction (DPAD) under section 199A(g). Enter the smaller of line 32 or line 36 ▶	37		
38	DPAD under section 199A(g) allocated from an agricultural or horticultural cooperative. Don't enter more than line 33 minus line 37	38		8,000
39	Total qualified business income deduction. Add lines 37 and 38 ▶	39		
40	Total qualified REIT dividends and PTP (loss) carryforward. Combine lines 28 and 29. If zero or greater, enter -0-	40	()	

Patron reduction

- Patrons must reduce their I.R.C. § 199A(a) QBI (20 percent) deduction if they receive qualified payments.
 - 9% of the QBI for that trade or business that is allocable to the qualified payments from the cooperative
 - 50% of patron's W-2 wages paid that are allocable to the qualified payments.
 - Observation. No wages paid, no reduction to patron's QBI deduction



Allocating ABI between Qualified Payments and Income From Other Sources

- Safe harbor Allocation
 - Ratably apportion the deductions and W-2 wages between income from qualified payments and other income.
 - Safe harbor is optional, if another method is reasonable and produces an accurate more beneficial result, it may be used. However, it must be used consistently from one taxable year to another.



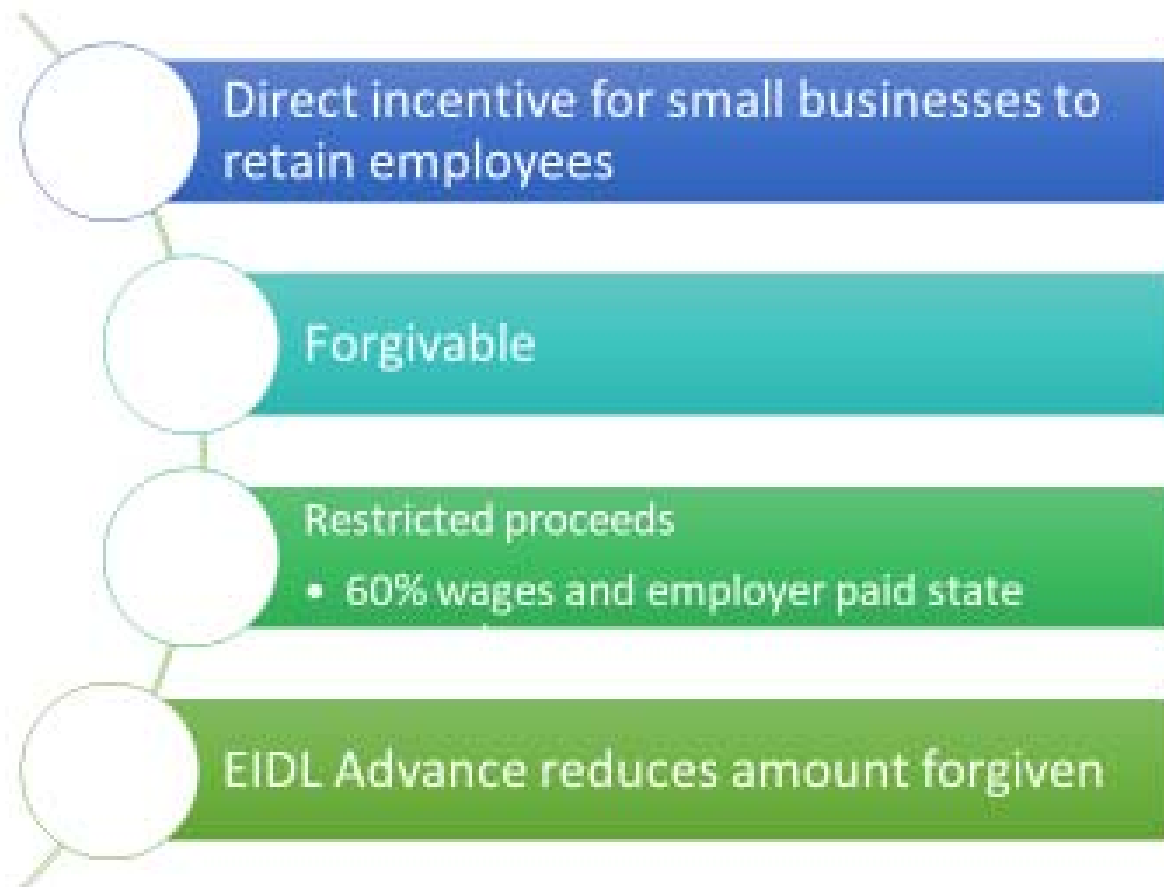
2020 Relief Loans and Grants

- Economic Injury Disaster Loan (EIDL)
 - For Businesses
 - Economic Hardship
 - Loss of Revenue
 - Working Capital and Normal Operating expenses
 - Minimum Loan \$ 15,000

Economic injury disaster loan advance

- \$ 1,000 per employee and per owner up to \$ 10,000
- Grant – included in income

PPP program



Loan terms for the unforgiven portion

- That portion of the PPP loan which is unforgiven are subject to the following terms:
 - One percent interest
 - Two-year term (PPPFA increased to 5-year for loans made after June 5)
 - Payments must begin 10 months from the end of the forgiveness covered period if no forgiveness application is made.

PPP Loan – Loan Forgiveness

- In the CARES Act, a borrower was **eligible for loan forgiveness** in an amount equal to the sum of eligible costs incurred **and** payments made during the **8-week** period beginning on the date the funds were disbursed.
 - PPPFA (Paycheck Protection Program Flexibility Act) extended the covered period for forgiveness from 8 weeks after loan disbursement to **24 weeks.** Pre-June 5 borrowers can keep 8 weeks.

FIGURE 2.2 – Forgiveness of Non-Cash Owner Compensation

	Health Insurance	Retirement Benefits	State and Local Taxes on Comp.
Self-Employed (Schedule C or F)	No	No	No
Partner	No	No	No
S Corp Owner-Employee	No	Yes*	Yes**
C Corp Owner-Employee	Yes**	Yes*	Yes**

*Does not count toward \$20,833 cap, but is limited to 2.5/12 of 2019 contributions.

**Does not count toward \$20,833 cap.



Non-payroll Costs Eligible Forgiveness

- **Interest on mortgage obligations** on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);
- **Rent payments on lease agreements** in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and
- **Utility payments under service agreements** dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).
 - Self employed no employees must have claimed or be entitled to claim a deduction for mortgage interest, rent, and utility expenses on the 2019 Form 1040 Schedule C for them to be a permissible use during the covered period.

Who Can Use 3508S? the 3508 EZ Form?

- **(New info!)** For those **\$50k or less** (including but not limited to sole proprietors, independent contractors, and self-employed individuals with no employees), **use the new 3508S**. Still need to do calculations and have documentation, but borrowers don't enter it on the new short form.
- For those over \$50k, use the **3508EZ**, if:
 - Did not reduce salaries or wages of their employees by more than 25%, and did not reduce the number or hours of their employees OR
 - Experienced reductions in business activity as a result of health directives related to COVID-19, and did not reduce the salaries or wages of their employees by more than 25%.



What about the 3508?

- If the borrower does not meet the requirements of the previous slide, the 3508 long form is required for forgiveness.
- Remember that for large loan recipients (\$2 million and greater), SBA will review and audit forgiveness requests.
- SBA.gov's forgiveness instructions are quite helpful.

Expense Reduction for Forgiveness

- Recently issued REV. PROC. 2020-51 and Rev. Rul. 2020-27 instruct the borrower to reduce expenses on the 2020 tax return for the amount of forgiveness....IF the borrower expects to receive forgiveness in the future.
- Recommendation is to enter a negative expense on the “other expense” line of the schedule F.

Reduction of Expenses

- HOWEVER, reduction of expenses are not needed for the portion of the PPP loan calculated from SE income (2019).
 - There were no expenses to originally take a deduction for so that portion of the loan does not require a reduction.

NOTE: This could change with future legislation.



Fall Tax Planning Considerations

- Farm Program
 - ARC-CO; ARC-IC; and PLC
 - Market Facilitation Program Payments
 - CFAP 1
 - CFAP 2
 - Crop Insurance
 - Other COVID Relief Payments/Programs

Fall Tax Planning Strategies

- Pre Pay Expenses
- Deferral of Income
 - Crop and/or Livestock sales
- Accelerated Depreciation
 - Section 179 and Bonus
- Crop Insurance Deferral



Pre Pay Expenses

- Cash Basis Filers are allowed to pre-buy up to 50% of their schedule F Expenses.
- Needs to be an actual purchase. Money paid on account does not work.
- Typically done with Seed, Fertilizer, Fuel, and Chemicals.

Deferral of Crop Insurance

- Cash basis farmers can defer income, planning is important.
 - Deferral election applies to destruction or damage to crops that results in an insurance or disaster payment.
 - I.R.C. § 451(f); Treas. Reg. § 1.451-6(a)
 - **MFP = Not Eligible for Deferral**

Deferral of Crop Insurance

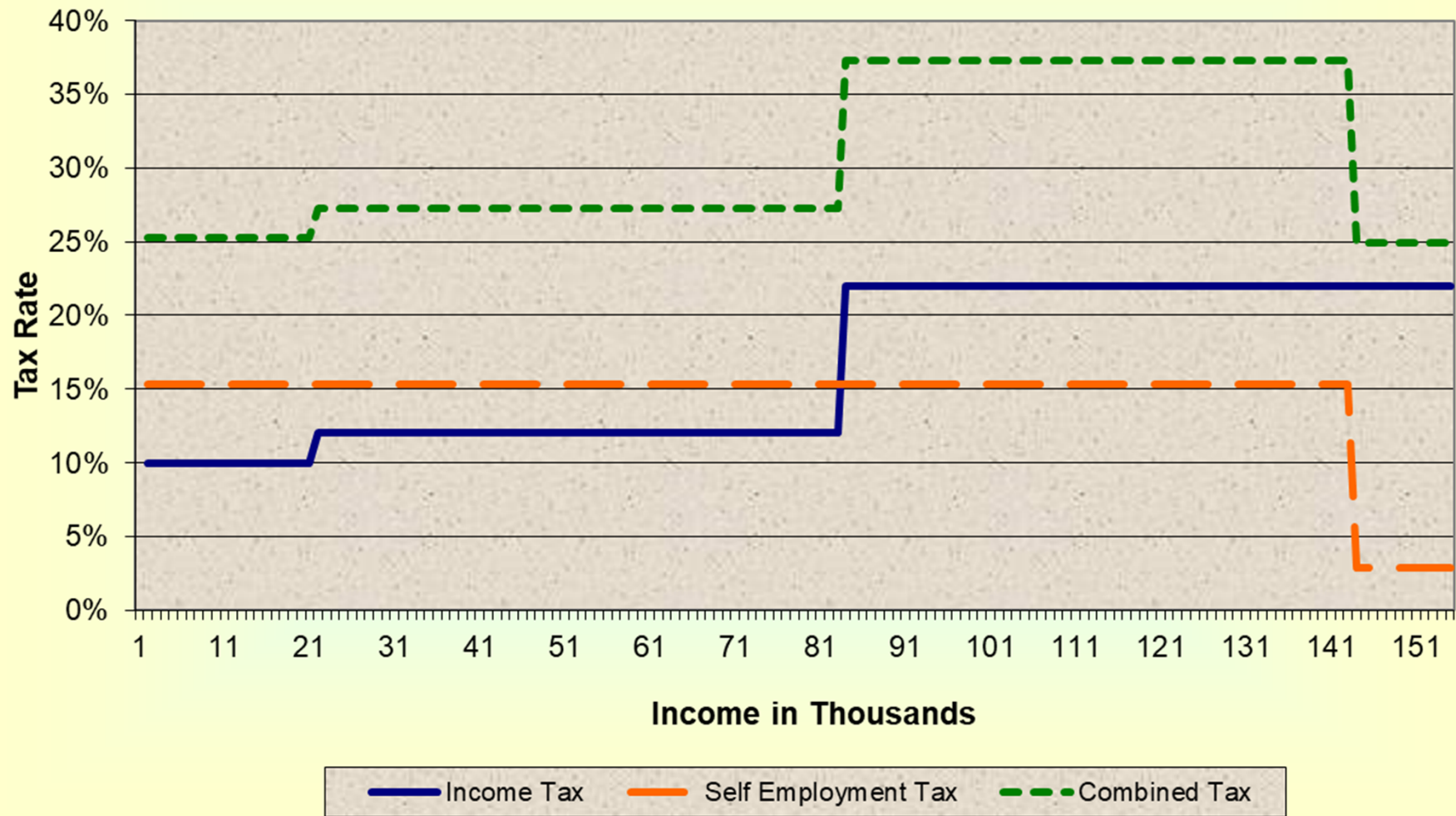
- Report income on cash basis
- Establish that under normal business practice, income from crops would have been reported in following year.

Deferral of Crop Insurance

- Rev. Rul. 74-145 requires taxpayer to show that more than 50% of income from each damaged crop(s) would be reported in the following year.
 - *Nelson v. Commissioner* (2008)



2020 INCOME TAX RATES (MFJ)





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