Kurt Piwko: Welcome to Tax Talk. I'm Kurt Piwko, a partner with our national tax office. I'm here today with Steve Eckert, another member of our national tax office. Today we're talking about tax reform. Specifically, planning opportunities for businesses to consider before year end. Steve, before we get into the details, why don't you give us an update of what's going on right now with business taxes and this tax legislation.

Steve Eckert: Well Kurt, the tax cuts and jobs act that we've been watching for a couple of months here looks like it's headed for passage here this week. It should be enacted before the end of the year. From a business standpoint I think this is really changing, fundamentally, some of the planning techniques and things we've looked at for a long time. From the big picture, it's a declining rate environment for businesses. Corporations historically have been at a 35 percent rate are headed down for a 21 percent tax rate starting in 2018. For pass through businesses the new pass through deduction will apply to a number of businesses and effectively give a rate break for that business income. There's a short period of time before the end of the year where there's still a higher tax rate year and we started looking at opportunities to potentially pull deductions into the 2017 year and defer income into 2018. As we start thinking about that and different ways to do that, accounting methods are one of the biggest areas we look to. What do you look at with this type of a situation?

Kurt Piwko: Yeah. I think that's probably the area that got, by far, the most questions on over the past couple of days and weeks. Really because I think accounting methods are probably the most powerful way that businesses can really shift income and deductions and often do it. In some ways that might be relatively easy. Some may be a little more complex, but at least with respect to things before year end. I mean there's really a lot of things that businesses can do. For example, if a business is on a cash basis you can try to defer the collection of receivables or make payments of expenses more quickly than you would have before.

Steve Eckert: True. That's the easy one, right.

Kurt Piwko: Well, yeah.

Steve Eckert: Make sure to do that. In other cases, what's a little bit more complex, I guess, and how would you approach it?

Kurt Piwko: Other things that can be done, I mean, the interesting part is this kind of area touches on almost every single thing that a business does. If they collect advance payments it's a question of are the advance payments taxable when you collect it or only in a later year when you earn it? You may be able to change to a method where you can defer that income until you earn it if that's not how you were accounting for it initially. That's something that taxpayers should be looking at. There's a number of deductions that aren't deductible until actually paid. Bonus accrual's at year end to employees sometimes falls in that kind of category, and so if you're in that situation then you might want to make sure to actually pay that before year end or change your bonus or a commission arrangement to make sure that's simply by accruing it at year end. You can deduct it in 2017 rather than in 2018.

Steve Eckert: That's probably the usual balance sheet approach. You just look down, see what's sitting there, and go through each item to see if there's any way you could utilize these accounting method changes to try to get a better tax result.

Kurt Piwko: Right. Yeah, I think we see other things even with ... You might have assets laying around, inventory, it might be fixed assets that you don't really need. Maybe it's excess and reduced values that are still just sitting around because maybe you'll use it at some point. Well, today in this environment, getting rid of it before the end of the year might trigger a deduction with enough permanent savings behind it that it's worth not having it around anymore. Really there's a lot of things in this area that the taxpayers can do.

Steve Eckert: Yeah, that's fair. I think bringing up the fixed asset situation that's a good thing to flag too. I mean we are having new bonus deprecation expensing rules kicking in, in 2018 as well. As we look to that, how do you take advantage of those?

Kurt Piwko: Yeah. The bonus depreciation is certainly going to be a significant one. Taxpayers were already eligible for 50 percent bonus depreciation on new assets. Now going forward, to be eligible for 100 percent expensing on both new and used assets, plus being able to expense things under section 179 much more significantly than they have been able to in the past. There really is a bigger strategy here to get assets placed in service by year end even if maybe you don't qualify for this 100 percent bonus for some of these assets placed in service before year end, which a lot of taxpayers might be able to. It just depends on your facts. Getting any depreciation by year end is going to be significant to be able to offset that higher taxed income before we get in to 2018.

Steve Eckert: Yeah, yeah. No, that definitely makes sense. The other thing is, we started looking for other things that are changing with the law and there's certain items that will certainly be certain deductions or other items that would be limited going forward. We start looking at things like, corporate NOLs or potentially interest deductions going forward that could be limited. Are there ways to try to utilize some of those attributes or maximize the benefits before year end?

Kurt Piwko: You look at any individual provision here and you get a lot of potential planning like this around it, but NOLs, for example, if you have a lot of them, maybe you want to accelerate income into 2017 to make sure you can really utilize that against this higher taxed income. You might want to even, potentially, restructure businesses to the extent that, that could influence how you use the NOLs or just maximize an NOL in 17 to be able to carry it back since that won't be an opportunity on a go forward basis.

Similarly, with interest expense, if you're going to be in a limitation position going forward you might know how to do whatever you can to maximize interest deductions in the current year. That might be restructuring debt. That might be paying off related party interests that might not have been deductible. Until it was actually paid, there could be a lot of things there, but just each of these provisions is going to have its own little unique planning environment around it. Steve, there's a lot of things here leading up to year end that we could do, but what about looking forward? I mean it seems these are a lot of significant changes here.

Steve Eckert: Yeah. I think fundamentally this is going to change how businesses approach their entity structure. I think everybody's gotten comfortable with the rules that have existed for a long period of time. I think ultimately some of the decisions about how your business is structured, how you capitalize the business, whether with debt or equity, preferred equity, certain structures. Some of the incentives may be changing going forward. I think everybody's going to have to give a long look at your entity structure. Make sure that it makes sense for the current tax cost that you have and for your future operational needs. That's something that can't really be done before year end, but I think as you get into the Spring here that's going to be something that we'll have to take a look at.

Kurt Piwko: Yeah. I could certainly see how you'd even think about interest limitations and debt and how much do you have, how much should you have, how it's treated. That will create a lot of interesting scenarios. That's it for this episode of Tax Talk. You could look for future episodes at plantemoran.com. Thanks for listening.