The Biz Beat Podcast – Episode 03: Trump's Big Beautiful Bill, Pass-Through Tax, and ERC Refunds

Lee: Hi there, everyone, and welcome back to The Biz Beat by SVA, the podcast that helps business owners stay current with what's happening in business and tax and what it means for you. I'm your host, Lee Schwartz, Sales Director at SVA, and as always, I'm joined by Eric Trost, tax principal, also here at SVA Certified Public Accountants.

Lee: Eric, you ready for round number three?

Eric: I am ready.

Lee: All right, so Eric, you and I spent some time at a conference in Vegas earlier this week. I didn't see you at the tables at all. Were you? Did you gamble?

Eric: I did. I did. I made a prop bet.

Lee: Oh, with sports?

Eric: Yeah, it's part sports and part religious. I put a bet down that Chicago would be the first city to produce a pope prior to having an elite quarterback.

Lee: Well, that that seems easy, actually, now that, because you could go the next couple thousand years and still be safe.

Eric: Yeah, that, yeah.

Lee: You would have gotten good odds if you had just done the Pope.

Eric: I put down100 bucks, and I won $101.

Lee: There you go. All right. Well, everybody, thanks for listening. If this is your first time with us, each week, we cover the biggest business or tax story you need to know. We highlight a tax strategy that might save you some money in the long run, and then we answer a question from our listener inbox.

Lee: So, let's get into it, Eric, we're going to talk this week about Trump's budget. He released it last week. It's a lot of specificity to it, but as we know at this point, it's just a proposal, but it gives us a good sense of what could be coming. So, softball question to you is, what stuck out to you about this? Let's talk about a few things that you saw in here.

Eric: Yeah, well, let's start with the name. So, every bill seems to get a name based on the acronym of letters that title the bill. And so something like the Tax Cuts and Jobs Act, which was back in 2017, was TCJA. Well, so far this name is BBB. It is a big, beautiful bill. So right now, we're going to call it the BBB. Now, as history sometimes repeats itself. This isn't the first BBB, because Joe Biden had a BBB called Build Back Better, but that was killed by his own party, and a very watered-down Inflation Reduction Act was passed instead, the IRA.

Eric: So, let's talk about Trump's BBB and what he wants to get done and where it is so far. What's happened right now is that there have been spending resolutions that have been passed by both the House and the Senate to at least allow for the framework of this BBB. So right now they are a quarter way down the road to putting this bill together, and the next steps that they're taking is the House is going to do a draft of this bill in actual legislative form, and the Senate's going to do a draft of the bill in actual legislative form, and then they're going to put those together in a process called reconciliation.

Eric: From a timeline standpoint, the House said that they'd like to have something put together. They're working on it right now, but by the end of May and the Senate said they'd like to have something put together by July 4. So that's their two lines in the sand that they call for passing their versions of the bill that will then be put together through a reconciliation process. I think that's very optimistic, just given the breakdown in the House and the Senate. The house has a very slim majority of Republicans right now, and I think they can count on zero Democrats voting for this. So they're going to have to get a almost preponderance, let's say all of the Republicans to vote on this bill and agree to it if they should pass it.

Eric: This is where it's heading, and this is what's outlined in the BBB. Is all the 2000 tax cuts from the Tax Cuts and Jobs Act will be extended or made permanent. It's unclear if it's extension or permanency, but that's all of them, and that includes the big things like Qualified Business Income, and it includes the lower tax rates for individuals. It includes things like bonus depreciation, so all those would be extended or made permanent as part of the BBB.

Eric: Second thing they're looking at is tax cuts within this framework as well. The House actually is trying to get $1.5 trillion of tax cuts. The Senate is a lot less. That's what the hang up in the House is probably going to be, is, do they get their tax or their tax spending, their spending cuts? Do they get their spending cuts through of the 1.5 trillion, and because it includes big cuts to programs that are difficult to cut, Medicaid and the SNAP program, which is like food stamps. So, there's going to be some negotiations that happen with that. The other tax cuts that they're looking at, that each the Senate and the House have committed to is no tax on Social Security, no tax on overtime, and no tax on tips. Those are the three things that have stood out that Trump has proposed in his BBB, that the Senate and the House each expect to incorporate within their versions of the tax bill.

Eric: Now, once that happens, and each side, each Senate and House, have their tax bill, and they go through the reconciliation process, that's where the final bill gets made, and eventually they want to have that final bill to Trump's desk by September. Again, it's a little early, I think, based on my prediction, and I think based on reality, but that's what their goal is going to be, is to get that reconciliation process done by September 30th.

Lee: Okay. So, and as you, as you're talking about, trying to get all the Republicans, particularly in the House, on the same page, has not, not exactly been easy for them over the last several years. So as you look at this budget, Eric, you talk about the House and the Senate and obviously Trump's idea. Are there any takeaways outside of the ones that you've talked about that a business owner would want to be thinking about, that, you know, look, they're not here yet, but these might be coming down the pipe. What do you think are the ones that that have the best chance of actually moving forward?

Eric: Yeah, I think there's a couple things businesses want to be aware of right now. One is, you know, even though they talk about the big spending cuts in Medicaid and food stamps, that actually, you know, those are hard to negotiate and get through. There's probably some common ground on some smaller spending cuts that are likely to happen, and those involve things that even DOGE is working on right now. And I would say that that is anything with government funding is going to likely have to relook at its budget, because there are government funded, not-for-profits, where I think there's going to be targeted spending cuts. Any area in climate change, DEI, you know, consulting around that, and contracts around that, those are likely to be cut.

Eric: The other tax areas that small businesses will be concerned about that have yet to be addressed in these bills is going to be the SALT limitation, which is been proposed to expand, however, that costs, you know, the Fed money to get that in there. Bonus depreciation, R&D expensing and interest expensing, easing the rules around that. So those are all things that have yet to be outlined within these proposals, but have all been topics of past legislative proposals and likely to come up again and be on the negotiating table to see if those get into this tax bill.

Lee: Right. And Eric, one of the I was just on a call yesterday with a nonprofit executive director, talking about expected cuts. There a homeless shelter and provide services to, you know, transitioning, transitioning folks, like a lot of their funding comes from HUD. I'm seeing a lot of potential ideas behind cutting the funding there too. Is that right?

Eric: Yeah, that's right. And I think there is some talk about, you know, these are some of these programs, are federal programs administered by the state, and some have state funds that go to them, to the extent federal funds are cut to them, the question is going to be to the states then is, do the states make that up? Or, you know, does that funding just get cut and the states have to figure out where they're going to cut their funding proposals if they're going to start matching what the Federals cut. So, if the federal cuts funding for a program and the state says, we'll pick that up, then what does the state do with their budget?

Lee: Yeah, great. Thank you. We're going to be talking about this a lot more in the coming weeks and months, as we already have, and this is only our third episode, so stay tuned. We'll keep you up to speed on everything that's happening out there, and make sure you are allowed to look into Eric's crystal ball with him.

Lee: So Eric, let's move on and talk about the pass-through entity tax. I personally hear this a lot from business owners, questions about it. I just want to give you a chance to sort of talk through how you look at that and how you work with business owners to utilize the path through pass-through entity tax to their advantage.

Eric: Yeah. So what the pass-through entity tax is, it's not an additional tax, it's an optional tax. You opt into it and,,,

Lee: You opt into a tax?

Eric: Oh, yeah.

Lee: Okay, that's, yeah.

Eric: Why would you want to do this? Right? Well, you'd want to do this because what you're really opting into is paying what would otherwise be your state tax obligations at an entity level instead of an individual level. And so what difference does that make whether I pay it with my business entity or whether I pay it individually? The difference comes from if it's paid by the entity, you get a full deduction when you pay that state tax, as opposed to if you pay your state taxes individually, this is what's called the SALT cap limitation in which an individual is only allowed to deduct up to $10,000 of all state and local taxes. So if you have real estate taxes of $5,000 in your home, that means you can only deduct another $5,000 of state income taxes, and any more you pay in that, whether it's $10,001 or ten million you still get just $10,000 of deduction.

Eric: So what the pass-through entity tax allows you to do, and you opt into it, is you still pay about the same amount of state taxes, but you pay them through your business, and this only works for individuals that are business owners, so they have to own a partnership, or they have to own an S corporation and be running it to fully take advantage of this. But by doing that now, your state taxes become deductible, and a $1 tax deduction is worth 30 cents on after-tax dollars in general. So, to be able to do that, you are getting a 30 cent savings for every dollar that you're paying in the state taxes, instead of paying those same state taxes individually and getting no tax deduction or no tax benefit from it.

Lee: So Eric, is this something that came about from the 2016 Tax Cut and Jobs Act because of the, because people are unable to take as much deductions on their personal or is this something that's always been there?

Eric: Yeah, this is something that came about as a result of, not the 2016 Tax Cut and Jobs Act, it was really the 2017 Tax Cut and Jobs Act. So the 2017 Tax Cut and Jobs Act is what limited the state income tax deduction, or the all tax deduction, I should say, to $10,000 at the individual level. So that flat cap on tax deductions came into play in 2017 and how some states have responded to this, and Wisconsin was actually one of the first to respond to this, has said, Hey, why don't we let businesses pay state income tax at the entity level, and if they pay state income taxes at the entity level, there is no cap for those and we can allow businesses then to take advantage of paying state income taxes and getting a deduction form, as opposed to having that cap on their individual side. And many states have now adopted and followed suit on this, and it ends up being a tax break again for business owners that own past serenities such as partnerships and S corporations.

Lee: Okay, you think this is going to be addressed in some of this upcoming legislation? Is this something that Trump and his party want to continue to see? Is this something they want to see go away?

Eric: Yeah, I don't think they want to see it go away. However, it's an unintended loophole that came up in response to the 2017 Tax Cuts and Jobs Act, and it could be seen as a target area if they're trying to raise revenue for other tax cuts or to raise revenue essentially to offset what they want to do with these future tax cuts. So I think what could happen is it could be on the table again, the negotiating table, which is going to have other things on it, and they could do something like, Hey, we'll extend the SALT deduction, but we're going to disallow this work around that states have put in place that was really not intended when the Tax Cuts and Jobs Act was first enacted. But this is, you know, this one's a little harder to anticipate, because you don't know what's going to hit the cutting floor and what's going to make a final bill as they go through this process. But we'll stay on top of it and let you know as it goes.

Lee: Okay, so let's check the inbox. You can send us your questions at bizbeat@sva.com or go to sva.com/bizbeat to submit one. Eric, it's only week number three, but we have gotten a few questions from our listeners. The question this week is: I finally received my ERC refund. Is this treated as income? Is there anything I need to be aware of?

Eric: Yeah, that's a good question, because the IRS is finally getting through their backlog of employee retention credit amended returns.

Lee: This is from this is going back to how long then Eric?

Eric: Yeah, it's going back to 2020 and 2021. So I don't know if you remember COVID back then. What had happened was, yeah, I mean, it was quiet. What had happened was in the midst of the COVID legislation. So a number of bills passed, including the PPP for the Payroll Protection Plan, but the ERC was also passed, which was called the Employee Retention Credit. And if you met certain criteria, you could effectively amend your 941 payroll tax returns and ask for credits for employees that you kept on hand, and those credits were credits against payroll taxes that were otherwise normally paid in and are paid in today. So that rule was in effect for 2020 and 2021, and a lot of companies were created in this, consulting companies, to go back and say, Hey, if you didn't take these ERCs, you should amend your returns and take them now. And we did the same thing. We just made sure to look at client data and go back and amend returns to make sure that we claim credits that were claimable under the tax law.

Eric: It took a long time for the IRS to process all these claims, because there were probably a lot of good claims, but there were thrown in there probably some aggressive, or even more than aggressive claims, and the IRS was trying to put some barriers in to look at all these, and a program to say, Okay, how are we going to assess these and send the refunds out? This took a long time, and the IRS finally started processing these claims again late last year, and so we've been seeing some refunds come through.

Eric: Now, what you were supposed to do when you claim these credits is reduce your wages, or, in effect, pick it up as income for the year that the wages were paid. So that would be 2020 and 2021. Some companies did not do that. One of the reasons they didn't do that is they didn't know when they were going to get the money, so they didn't want to amend returns and pay income tax on those credits that they hadn't received yet. So they were going to wait till they received the credit then go back and amend their income tax return and pick it up as income. Well, the IRS has recently issued some guidance and said, hey, you know, if you have not yet included the credit amount as income, you can include it in the year that you receive the refund, instead of going back and amending income tax returns to pay in tax on the credit. So now what you can do is, you know, if you've received a refund, now you have to look and say, Did I include this credit as income when I first took the credit on the wages that were paid, or if I didn't, I really should include it in income now, but I don't have to do an amended return to do it. I just pick it up in the year that I received the check, so it would be income in your 2025 return if you did not previously included an income back when you took the credit.

Lee: Okay, I think I followed all that.

Eric: It was a mouthful, but it's actually a very important guidance from the IRS now, because there's a lot of credits that are out there that I think people have not yet claimed as income, and this makes it easy for them to do.

Lee: Okay, gotcha. And then the main takeaway is you don't have to go back and amend is just include it when you get it.

Eric: That's right, yeah.

Lee: Okay, thanks for that. That is going to be a wrap on this week's episode of The Biz Beat by SVA. Thank you all for joining us. New episodes drop weekly on Apple podcasts, Spotify and on YouTube. If you like today's episode, go ahead, hit subscribe, leave a review and send it to someone you think might find it useful. You can also sign up at sva.com/bizbeat, submit a question and enter our $100 Amazon gift card drawing if you're one of the first 100 subscribers.

Lee: And as always, we're talking general strategy here, so for advice specific to your situation, reach out to your SVA advisor. If you're not working with SVA yet, give me a call. Let's work on that. We can fix that. Thanks again for listening, everybody, and we'll see you next week on The Biz Beat by SVA.