Planning Around Section 179

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In its usual fashion, Congress has not yet continued the increased $500,000 deduction amount under Section 179 for 2015. In July, the Senate Finance Committee approved a bill that would extend the higher Section 179 levels, bonus depreciation, and other tax incentives (commonly referred to as "tax extenders") into 2015 and through December 31, 2016. However, until that bill becomes law, farmers must again structure their tax planning around an uncertain Section 179 amount. Currently, farmers may only deduct $25,000 under Section 179, and no bonus depreciation is available under Section 168(k).

Deferred payment contracts can provide farmers with the flexibility they need to optimize their income under the current tax rules, while still being able to take advantage of an increased Section 179 amount in the event Congress renews the tax extenders. A deferred payment contract can be used by a farmer to sell grain in one year and receive the payment in a later year. The default rule with deferred payment contracts is for the farmer to recognize income in the year payment is received; however, an election can be made to recognize income in the year of the sale. The election is on a contract-by-contract basis, so utilizing multiple deferred payment contracts provides the most flexibility.

An example will illustrate this point. Imagine a farmer has already optimized his income for 2015 using the current tax rules ($25,000 available under Section 179 and no bonus depreciation). But, if Section 179 is increased to $500,000, the farmer would buy new equipment worth $350,000. The farmer enters into several deferred payment contracts—three for $50,000 and two for $100,000. If Congress increases the Section 179 amount to $500,000, the farmer will elect to report the income from these contracts in 2015 and use the Section 179 election. If the higher Section 179 amount is not extended, the farmer does nothing and reports the income in 2016. Now imagine the increased Section 179 amount is extended, but only at an amount of $250,000. The farmer may still deduct a portion of the purchase price under Section 179 by electing to recognize the three $50,000 contracts and one $100,000 contract in 2015. However, the farmer will not report the remaining $100,000 contract until 2016.

Here are a few other helpful tips to keep in mind when structuring your 2015 tax planning:

- Any insurance proceeds you receive from crop damage count as income. Generally, you must include insurance proceeds in the year they are received. However, cash method taxpayers may be able to postpone reporting the proceeds until the following year if the taxpayer can show that he/she would have included income from the damaged crops in any tax year following the year the damage occurred.
- You can deduct the cost of items purchased for resale. This includes not only livestock purchased for resale, but any freight or transportation charges incurred in connection with transporting that livestock to your farm as well.
- A tax credit or refund of excise tax may be available for fuel used on your farm in connection with farm work. If you operated on public highways equipment that must be registered, you can file form 2290 to claim an exemption for that equipment, if applicable.

If you have a specific question about this article, or how its content affects you, please contact Todd Hoppe at thoppe@fosterswift.com or Michael Zahrt at mzahrt@fosterswift.com.