

If Your Client is Not Capturing IP-Related Tax Savings They are Likely Leaving Significant Money on the Table

I recently heard a group of tax experts spoke about issues related to intellectual property ("IP"), and since then I have been thinking about how my clients could benefit from better incorporating IP into their corporate tax planning and accounting processes. The topic is very complex and, as such, I will leave the details to the experts. (Feel free to contact me for recommendations in this regard.) I believe it is nonetheless valid to make the following statement: if your tax experts do not include IP issues in their tax planning and accounting processes, your company is likely leaving considerable money on the table.

As these experts discussed IP-related tax issues, it became apparent to me how important IP asset management should be to corporate tax planning and accounting efforts. However, my experience demonstrates that few corporate managers are aware that such savings are possible. Even if they know about this opportunity, it would likely be exceedingly difficult for them to capitalize on this savings because few organizations possess the IP infrastructure that allows efficient capture and assessment of costs associated with obtaining and managing IP assets. And, without such IP accounting information, the tax savings cannot be appropriately captured.

A word of qualification--I am in no way a tax expert. Nevertheless, I do understand that in order to capitalize on tax deductions and tax credits related to IP, accounting processes must be able to determine the costs of obtaining and managing such assets. It would then make sense that IP attorneys such as myself would be contacted on a regular basis to assist tax experts in the information capture process. In my years of high level intellectual property practice, I was never expressly brought into the tax planning or accounting processes. I must therefore conclude that most, if not all, of my clients failed to adequately capitalize on the tax savings opportunities discussed by the tax experts. Indeed, the tax experts who I heard speak confirmed that many c companies are effectively ignorant about how proper IP asset management and tax planning can reduce overall corporate tax liability.

How can a corporation capture this tax savings value? The first step is certainly to obtain education about the categories of tax savings that can be captured through improved IP management programs. Management would be well-served in this regard by finding the necessary IP and tax expertise to identify opportunities for value capture through tax savings. Due to the highly arcane nature of the interplay between tax and IP, I would advise one to seek specific expertise outside of their organization. This will require payment to consultants, which could be a limiting factor for many corporations. However, without the initial investigation by the appropriate consultants, the result will be that no IP-related tax savings

will be captured.