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Tax debate spurs reaction from National Beverage

Wayne Tompkins

Concern over the outcome of the tax debate in Congress has inspired the board of at least one South Florida company to "guard their shareholder interests" by declaring a special cash dividend.

National Beverage, a Fort Lauderdale-based soft-drink company known for its Shasta brand, its Nasdaq stock symbol FIZZ and chief executive Nick Caporella's colorfully worded news releases, noted in a statement that Dec. 6 is the latest effective date to secure preferential tax treatment for shareholders.

Announcing the special dividend of \$2.30 a share, Caporella blasted federal lawmakers' "lack of fiscal judgment, relative to the expiration of the current tax laws," saying it compelled the board to act in a "prudent manner" on behalf of shareholders.

"There is much conjecture these days about what Congress may or may not retroactively do," Caporella said.

On Thursday, the company reported net income of \$10.2 million, or 22 cents a share, for the quarter ended Oct. 30, up from \$8.3 million a year earlier. Net sales rose slightly during that period, to \$151.1 million from \$149.6 million.

The company's most recent special dividend was \$1.35 a share in January 2010. There have been three others since April 2004, said Grace Keene, the company's director of investor relations.

The dividend will be payable to shareholders of record as of the close of business on Dec. 16. Under Delaware law, the state where National Beverage is incorporated, payment of dividends must be made no later than 60 days after the record date, or Feb. 14, 2011.

"The way that the board structured this, would be that the dividend was going to be paid on or before Feb. 14," Keene said. "However, should Congress not extend the favorable tax rate on qualified dividends to individuals, we could push the dividend into 2010."

Caporella said that while the board and management are "joyful and uplifted" for the shareholders, the dividend will not impair the company's future performance.

"We would like to make the payment in 2011, as most companies would," Keene said.

"This would avoid two cash dividend payments in 2010 if we paid it in 2011. We believe that would be a more favorable tax treatment to the majority of our shareholders."

Howard Hammer, a certified public accountant with **Fiske & Co.** in Plantation who is not connected with National Beverage, said what the company is doing is prudent.

"There is no guarantee yet that as of Jan. 1, that the rate of tax on qualified dividends, which are dividends from a domestic corporation, will not go up."

Hammer said he understands Caporella's frustration.

"If he pushes it into '10 because he finds out in '11 it's going up, his shareholders would not have had use of the money for very long in '10 and they're paying tax on two dividends," he said. "What he's doing — and rightly so — is throwing his hands up in the air and asking, 'What has taken so long'? That these very simple things that need to be done in Washington don't get done. He's afraid that he'll hurt his shareholders if he waits until 2011 to declare and there is an increase."

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