



## Year End Reminders and Ideas

As we approach the end of the 2008 tax year, there are a number of items we would like to bring to your attention that may affect your tax situation or you might want to consider in the next few weeks. If you have questions on any of these matters, please feel free to contact our office.

### ■ Individual Taxpayers

#### Real Property Taxes for Non-itemizers

Homeowners who claim the standard deduction may claim an additional standard deduction for state and local real property taxes paid, up to \$500 (\$1,000 for joint returns), for 2008 and 2009.

#### Income for Forgiveness of Mortgage Indebtedness

Those principal-residence homeowners who have a portion of their mortgage debt forgiven as part of a workout or foreclosure have been spared having to pay income tax on that forgiven income. The Mortgage Indebtedness Relief Act of 2007 first applied this tax-free treatment to debt forgiveness taking place from 2007 through 2009. The Emergency Economic Stabilization Act of 2008 extended it through 2012.

#### State and Local Sales Tax Deduction

Under this deduction taxpayers who itemize deductions have the option of claiming either state and local income taxes or state and local general sales taxes. The Emergency Economic Stabilization Act of 2008 extended this deduction for 2008 and 2009.

#### Tuition and Fees Deduction

Taxpayers may continue to deduct qualifying tuition and fees paid in 2008 that are required for the student's enrollment or attendance at a post-secondary school. The tuition and fees deduction is an above-the-line write-off that, depending on adjusted gross income, can reduce taxable income by as much as \$4,000. The deduction is frequently more valuable than taking a Hope or Lifetime learning education credit. Since this deduction also has been extended for 2009, deciding in which tax year an upcoming tuition payment will be made can help maximize your overall education deductions and credits.

#### Classroom Expense Deduction

K-12 teachers, instructors, counselors, and other educators who work at least 900 hours per school year can deduct up to \$250 worth of books, supplies, software, and other qualifying materials that they provide out of pocket. The deduction had been set to expire at the end of 2007, but Congress has now extended it for 2008 and 2009. Educators should remember that this deduction is based on the calendar year, rather than the school year.

#### Vacation Home Conversions

Gain from the sale of a principal residence that is allocable to periods of "nonqualified use" can no longer be excluded from the taxpayer's gain realized on its sale. A technique that has been used by many vacation home owners is to eventually convert that second home into a principal residence before its sale and claim a full \$250,000 principal residence exclusion (\$500,000 for joint filers) on the gain. Due to a loophole closing provision in the 2008 Housing Assistance Tax Act, any conversion made after December 31, 2008, cannot shelter the portion of that gain allocable to post-2008 appreciation.

#### Capital Gains

If you are planning to sell a capital asset that you've held for over a year, such as shares of stock, higher-risk growth securities, or certain investment assets, and a gain would result from the sale, you may want to consider selling during 2008 to take advantage of the reduced capital gains tax rates. The capital gains tax rate for taxpayers in the 25% or above tax brackets is 15% for 2008-2010 and after 2010, this rate is scheduled to revert to 20%. The incoming administration has discussed raising this rate sooner than scheduled, although current economic conditions have suggested that no action may be forthcoming any time soon.

You may also want to consider selling assets that may have lost permanent value to offset gains. Up to \$3,000 of losses that are not offset by gains can be used against ordinary income, and unused losses can be carried over to future years.

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## AMT Patch

The Emergency Economic Stabilization Act of 2008 (EESA) included among its many provisions a so-called alternative minimum tax (AMT) "patch." For the 2008 tax year, the AMT exemption amounts are raised to once again insulate most middle-income taxpayers from the reach of the AMT. The patch is only for 2008. Hopes are high that in 2009 Congress will finally face up to the need to find a permanent solution to the AMT and pass AMT reform rather than yet another patch.

## ■ Estate and Trust Planning

### Gift-Giving

Slow and steady estate planning can yield dramatic results. Nowhere is that more apparent than in devising an annual plan for gift giving to family members. Before year-end 2008, you can transfer up to \$12,000 per person, per year, without paying gift tax on the amounts transferred. Married couples can gift \$24,000 per person by "splitting" their gifts. In 2009, the annual exclusion rises to \$13,000 (\$26,000 for couples). This strategy not only avoids the possibility of paying a hefty estate tax later, but it removes earnings from those gifts from your taxable income bracket into that of the lower-bracket gift recipient.

### Tax-free IRAs Charitable Contributions

The EESA extends through December 31, 2009, the opportunity for certain taxpayers age 70 ½ or older to make tax-free distributions from IRAs for charitable purposes. This contribution can include any required minimum distribution that the taxpayer would be otherwise required to take.

## ■ Small Business Provisions

### Husband/Wife LLC

During 2007 the Internal Revenue Service clarified that a Limited Liability Company owned by a husband and wife is considered a multiple-member LLC, not a single-member LLC, for tax purposes. This means that a separate partnership return (Form 1065) is required to be filed for the LLC (unless an election is made by the LLC to be taxed as a corporation). If you are a member of a husband/wife LLC and want to avoid this partnership classification and filing requirement, please consult your attorney as to your options. You must make a retroactive change to the LLC's organizing documents before December 31, 2008.

### Bonus Depreciation

The Economic Stimulus Act of 2008 provided 50 percent bonus depreciation of the adjusted basis of qualifying property. This accelerates an additional 50 percent of depreciation that would be allowed on business property into the first year in which it is acquired. However, the property generally must be purchased and placed in service during the calendar year 2008 to qualify. In 2009, the tax law reverts to its regular depreciation allowance.

### Equipment Purchases - Enhanced Expensing Provisions

Most small businesses are eligible for the Code Section 179 deduction, a generous and lucrative tax break that enables businesses (especially those that are capital intensive) to immediately deduct equipment purchases that otherwise would have to be depreciated over a number of years. There are limits to this deduction, however. Looking at the tax law as it now exists, the limits for 2008 are far more generous than for 2009.

The Economic Stimulus Act of 2008 almost doubled the amount of deductible Code Sec. 179 expensing for tax years beginning in 2008 to \$250,000 and increased the threshold for reducing that deduction to \$800,000. After 2008, the expensing limits revert to prior inflation-adjusted caps, anticipated for 2009 to be \$133,000 for the deduction limit and \$530,000 for the start of the phase-out. Of course, another economic stimulus package may be passed in 2009 to keep these amounts higher, but businesses likely to make purchases of qualifying property soon should consider at least maximizing amounts for 2008.

## ■ Tax Organizers

Organizers, engagement letters and IRS Forms 2848, Power of Attorney, will be mailed to our individual tax clients by mid-January.

Please remember to return these documents to our office with your other tax documents.

## ■ Important Tax Due Dates

### February 2, 2009

Deadline for issuance of 1099s and W-2s

### February 16, 2009

Corporate tax return documents are due to us

### March 9, 2009

Individual organizer and tax return documents are due to us

### March 16, 2009

Corporate calendar year tax returns due

### April 15, 2009

- Individual federal tax returns due
- IRAs contribution deadline for 2008
- Partnership calendar year tax returns due