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We are pleased to provide you with our online informational newsletter, which we believe you will find of interest. Every month, brief articles on relevant topics are included, along with a tax calendar for the current and following month.

Interested in knowing more about our firm? Please take a minute to browse our website at [www.cohensmithcpas.com](http://www.cohensmithcpas.com).

**Other helpful on-line services**

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**October 2009**

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## **Year-end Tax Planning Ideas**

Despite the confusion created by never-ending legislative changes, the current federal income tax environment still offers some significant planning opportunities. Now is the time to take advantage of the tax breaks Congress has provided before they disappear. This article presents a few key tax planning ideas to consider before year-end. Some of the ideas may apply to you, some to family members, and others to your business.

### **Cash in on First-time Homebuyer Credit.**

While we covered this in our Special February 2009 Newsletter, the upcoming November 30, 2009 deadline warrants revisiting this topic. Legislation enacted in 2008 created a temporary tax credit for so-called first-time homebuyers (basically, taxpayers who haven't owned a principal residence in the last three years). Stimulus legislation enacted earlier this year extended the credit provision to cover qualified home purchases through November 30, 2009, and made the maximum credit amount more generous. More importantly, the stimulus legislation also deleted a previous requirement to repay the credit over 15 years.

For a qualified principal residence purchased between January 1, 2009, and November 30, 2009, the maximum credit equals the lesser of: (1) 10% of the purchase price of a principal residence, (2) \$8,000, or (3) \$4,000 for those who use married filing separate status. The credit can be used to offset your federal income tax bill, including any Alternative Minimum Tax (AMT). The credit is also refundable, which means that after your tax bill has been reduced to zero, you are allowed to collect any leftover credit amount in cash. Note that the credit begins to phase out when your income reaches \$75,000 (\$150,000 for joint filers).

### **Tax Break for Buying New Vehicle.**

Thanks to a buyer's market and the following tax break that won't be around forever, now might be a very good time to purchase a new vehicle. Stimulus legislation passed earlier this year created a new federal income tax deduction for state and local sales and excise taxes paid on new (not used) vehicles that are purchased (not leased) between February 17, 2009, and December 31, 2009. The write-off is limited to the amount of taxes on the first \$49,500 of purchase price. You can claim the break whether you itemize or not, and it's allowed even if you owe the AMT. Qualifying vehicles include almost all passenger autos, pickups, and SUVs, as well as motorcycles and RVs. However, a phase-out rule can reduce or completely eliminate the break for higher-income taxpayers.

### **Larger Section 179 Deduction.**

Your business may be able to take advantage of the temporarily increased Section 179 deduction. Under Section 179, an eligible business can often claim first-year depreciation write-offs for the entire cost of new and used equipment and software additions. For tax years beginning in 2009, the maximum Section 179 deduction is \$250,000 (same as last year). For tax years beginning in 2010, however, the maximum deduction is scheduled to drop back to about \$130,000 (depending on the inflation adjustment), unless Congress takes further action. Note that various limitations apply to the Section 179 deduction privilege.

**50% First-year Bonus Depreciation.** Above and beyond the bumped-up Section 179 deduction, your business can also claim first-year bonus depreciation equal to 50% of the cost of most new (not used) equipment and software acquired and placed in service by December 31 of this year. The first-year bonus depreciation break is scheduled to expire at year-end, unless Congress takes further action.

### **Longer Carryback Period for Net Operating Losses (NOLs).**

Stimulus legislation passed earlier this year allows qualifying businesses to carryback NOLs generated in tax years beginning or ending in 2008 for up to five years (versus the two-year carryback rule that usually applies). Therefore, if your qualifying business uses a *fiscal tax year*, you may still have time to take actions that will create or increase an NOL for the current tax year. That NOL can then be carried back for up to five years to recover taxes paid in those years.

### **Cash for Unneeded Life Insurance Policies**

Besides providing loved ones with a source of funds for income replacement in the event of an untimely death of the family's breadwinner(s), people buy life insurance for a variety of reasons. These include, but are not limited to—

1. Funding a buy/sell agreement or key person insurance for a business.
2. Satisfying a lender's requirement when a loan was made.
3. Funding anticipated estate taxes.

Whether it was one of these needs or something else, circumstances change, and sometimes people find that they no longer need, or perhaps can no longer afford, certain policies. In addition to affordability, the policy may no longer be needed if—

1. The key person in a business has retired, thus eliminating the need for the policy.
2. The business has been sold or business circumstances changed, eliminating the need for the policy.
3. Family circumstances have changed: (a) a mortgage or other loan was paid off; (b) the kids have been educated or moved away from home; (c) the policy's primary beneficiary has died; or (d) the insured went through a divorce.

If one of these describes your situation, you should probably consider whether it might be more beneficial to sell the policy before you allow a term life policy to lapse, or before you turn in a whole life policy for its cash surrender value. Known in the industry as a life settlement, selling a policy can sometimes net the policyholder a sum in excess of a whole life policy's cash surrender value or a term policy's unearned premium.

Although such arrangements are still fairly new, the IRS recently released guidance on the tax results of such a transaction. While the rules are somewhat complex, the rulings indicate that build-up of earnings inside the policy are taxed as ordinary income, with amount in excess of income build out, possibly eligible for capital gain treatment. If you have an unneeded policy that you're thinking about getting rid of or just letting it lapse, we suggest examining the possibility of selling your policy. Of course, before you make a decision, be sure to evaluate the potential tax implications.

## **Florida Taxpayer's Voluntary Disclosure of Tax Liability**

What to do if you think you might owe back taxes. For example, taxes on out-of-state purchases, or failure to remit sales tax on self-rented property.

### **What is Voluntary Disclosure?**

Voluntary disclosure is the process of reporting previously unpaid or underpaid tax liabilities for any tax administered by the Florida Department of Revenue. It is the taxpayer's opportunity to voluntarily pay these taxes without being penalized.

This program can assist with registration and payment, provide technical assistance in determining tax liabilities, and answer other tax questions. In most cases, taxpayers are contacted within two weeks of receiving the necessary information.

The Department of Revenue has a voluntary disclosure program for all the taxes that the agency administers, including (but not limited to):

- ◆ Sales and use tax
- ◆ Discretionary sales surtax (county tax)
- ◆ Corporate income tax
- ◆ Unemployment compensation tax
- ◆ Documentary stamp tax
- ◆ Communications services tax
- ◆ Intangible personal property tax
- ◆ Insurance premium tax
- ◆ Gross receipts tax
- ◆ Motor and other fuel taxes
- ◆ Solid waste and surcharge
- ◆ Tax on gross receipts of dry cleaning facilities

### **Frequently Asked Questions**

#### **Who is eligible?**

Anyone who has any tax liability for a tax administered by the Florida Department of Revenue and who has not been previously contacted by the Department concerning the liability. Disclosures relating to delinquencies or deficiencies that are obvious and would routinely generate a billing if not otherwise self-disclosed are not eligible for the program.

#### **What are the benefits to the taxpayer?**

When the tax and interest liabilities have been paid, all penalties will be waived, unless tax has been collected and not remitted. In those instances, a five percent penalty will be imposed per Rule 12-13.0075 (3), Florida Administrative Code (F.A.C.), unless reasonable cause is presented.

#### **How far back will the Department look?**

Three years immediately preceding the postmark date of the voluntary disclosure request. See section 213.21(7), Florida Statutes (F.S.). Failure to take advantage of this program could result in the Department holding the taxpayer liable for the applicable (longer) limitation periods of the relevant taxes.

## **How do I apply?**

You **must** apply by written request and include the following information:

- A statement that you have not been previously contacted by the Florida Department of Revenue about the disclosed tax liability.
- The tax type and period being disclosed.
- A statement as to what amount, if any, of tax was collected and not remitted.
- The city, county, and state of the taxpayer (for sales and use tax).
- Type of taxable activities or transactions (for sales and use tax).
- Your sales and use tax certificate number, if applicable.
- A completed Form DR-1, *Application to Collect and/or Report Tax in Florida*, if you need to register for sales and use tax.
- Any other facts regarding the disclosure.

Please let us know if you have any questions about the voluntary disclosure program, or wish to discuss any sales tax issues.

## **OCTOBER 2009**

### **October 13**

Employees who work for tips. If you received \$20 or more in tips during September, report them to your employer. You can use Form 4070.

### **October 15**

**Individuals** - File a 2008 income tax return and pay any tax, interest, and penalties due if you were given an automatic six month extension.

**Employers** - For Social Security, Medicare, withheld income tax, and nonpayroll withholding, deposit the tax for payments in September if the monthly rule applies.

## **NOVEMBER 2009**

### **November 2**

Social Security, Medicare, and withheld income tax - File Form 941 for the third quarter of 2009. Deposit any undeposited tax. (If your tax liability is less than \$2,500, you can pay it in full with a timely filed return.) If you deposited the tax for the quarter in full and on time, you have until November 9 to file the return.

Federal unemployment tax. Deposit the tax owed through September if more than \$500.

### **November 9**

Social Security, Medicare, and withheld income tax. File Form 941 for the third quarter of 2009. This due date applies only if you deposited the tax for the quarter in full and on time.

Employees who work for tips. If you received \$20 or more in tips during October, report them to your employer. You can use Form 4070.

**November 16**

**Employers** - For Social Security, Medicare, withheld income tax, and nonpayroll withholding, deposit the tax for payments for October if the monthly rule applies.

Nonpayroll withholding. If the monthly deposit rule applies, deposit the tax for payments for October.