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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.

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www.IRS.gov

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November 2009

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“Bank Failure” E-mail Delivers Virus

In October 2009, Internet users began receiving e-mails purporting to have come from the Federal Deposit Insurance Corporation (FDIC), the agency that insures deposits in U.S. bank accounts. These messages claimed that the recipients were holders of FDIC-insured bank accounts in failed banks and instructed them to click on a link to the FDIC web site in order to download the a file which would allow them to check their “Deposit Insurance Coverage.”

However, the link embedded in the e-mail led not to the real FDIC web site, but to a spoof web site. Attempting to download the file from that site could initiate the installation of malware on the user’s computer (presumably to collect sensitive personal information).

The real FDIC put up an *alert* to warn consumers about this fraudulent mailing:

The Federal Deposit Insurance Corporation (FDIC) has received numerous reports of a fraudulent e-mail that has the appearance of being sent from the FDIC.

The subject line of the e-mail states: “check your Bank Deposit Insurance Coverage.” The e-mail tells recipients that, “You have received this message because you are a holder of a FDIC-insured bank account. Recently FDIC has officially named the bank you have opened your account with as a failed bank, thus, taking control of its assets.”

The e-mail then asks recipients to “visit the official FDIC website and perform the following steps to check your Deposit Insurance Coverage” (a fraudulent link is provided). It then instructs recipients to “download and open your personal FDIC Insurance File to check your Deposit Insurance Coverage.”

This e-mail and associated Web site are fraudulent. Recipients should consider the intent of this e-mail as an attempt to collect personal or confidential information, some of which may be used to gain unauthorized access to on-line banking services or to conduct identify theft.

The FDIC does not issue unsolicited e-mails to consumers. Financial institutions and consumers should NOT follow the link in the fraudulent e-mail.

Corporate Governance and Board of Directors

In recent years, the term corporate governance has become widely used in news publications and broadcasts, thus bringing to the forefront a public awareness of general corporate responsibility and accountability. Corporate governance can be defined as the oversight management of a company’s financial activities, including all financial reporting matters, tax compliance, and executive compensation issues. Preserving the longevity of the corporation, criminal fraud prevention, fraud detection, and corporate accountability are expectations and responsibilities of sound corporate governance.

The demise of several public companies has been blamed, at least in part, on corporate governance failures. The proper operation of such oversight could have provided early detection of the unchecked fraudulent behavior and lack of transparent disclosure and controls that contributed to the downfall of those entities. Ultimately, the board of directors has the primary responsibility for such oversight. However, this responsibility is shared by executive management because of its direct involvement, knowledge, and approval of corporate financial activities.

While the concept of corporate governance has been implemented at the large public company level, its applicability to the closely held corporation should not be ignored. Regardless of size, the closely held corporation faces issues similar to those of the large public entity, which are to sustain profitability, grow the company, and maintain transparent ethical financial practices. Furthermore, effective corporate governance in the closely held corporation should help to shield the assets of its owners from loss due to fraud, poor planning, and litigation originating from, or lost due to, inadequate corporate governance.

A key to successful corporate governance is an effective board of directors. To be effective, the board must have qualified members and, in the case of a closely held corporation, a collaborative relationship with the entity's owners, measurable goals, and a process of evaluating its performance.

Acquiring qualified board members can be a challenge, especially given the risk each member takes and that compensation can be low or nonexistent. When resources for a board member search are limited, good candidates can be selected from current legal advisers, corporate bankers, and the business owners of suppliers or customers.

Board members can be protected from personal liability for legal costs or claims through an indemnification from the corporation and through directors and officers insurance.

The \$25 Gift Deduction Limit Just Isn't What It Used To Be

Most taxpayers are at least vaguely aware of the tax rule that limits the deductions for business gifts to \$25 per person per year – a limitation that hasn't been raised in decades. What isn't as widely known is that there are a few exceptions to this rather restrictive limit. When one of these exceptions applies, you typically have no limit (or at least a much higher limit) on the deduction for business gifts.

Here's a quick rundown of the major exceptions to the \$25 limit.

- ◆ **Gifts to a Business Entity versus an Individual.** The \$25 limit only applies to gifts directly or indirectly given to an individual. Thus, gifts given to a company for the use in the business aren't subject to the limit.
- ◆ **Gifts to a Husband and Wife.** If you have a business connection with both spouses and the gift is for both of them, the \$25 limit double to \$50.

- ◆ **Only Direct Costs are Limited.** The incidental costs of making a gift aren't subject to the limit. Thus, the costs of custom engraving on jewelry, and the costs of packing, insuring, and mailing a gift are deductible over and above the \$25 limit for the gift itself.
- ◆ **Gifts to Employees.** Although they have their own limitations and may be treated as compensation to the employees, an employer is allowed to deduct the costs of gifts made to employees.
- ◆ **Gifts versus Entertainment Expenses.** Entertainment expenses are normally only 50% deductible and gifts, of course, are typically 100% deductible, but only up to the first \$25 of cost per donee per year. In some situations related to gifts of tickets to sporting and other events, a taxpayer has a choice whether to claim the deduction as a gift or as entertainment. The gift deduction is a better deal for lower priced tickets, but once the combined price of the gifted tickets exceeds \$50, claiming them as entertainment expense is more beneficial.

As you can see, there are several exceptions to the \$25 rule. Thus, many businesses will be able to meet at least one of them. To the extent your business qualifies for any of them, it's important that the qualifying expenses be tracked separately (typically by charging them to a separate account in your accounting records) so that a full deduction can be claimed.

If you have any questions regarding the types of gifts or gift-giving situations that may qualify for a full deduction or how to properly isolate and account for them in your records, please call us so we can help you get to the right answers.

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.

DECEMBER 2009

December 10

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

December 15

Calendar-year corporations must deposit the fourth installment of estimated income tax for 2009.

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