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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**

**[www.IRS.gov](http://www.IRS.gov)**

**[www.MyFlorida.com](http://www.MyFlorida.com)**

**[www.Volusia.org](http://www.Volusia.org)**

### **September 2008**

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## **The DeLand Branch of Neighborhood Center**

The DeLand Branch of Neighborhood Center is out of food. More and more families are struggling in these rough economic times.

Here is what they need to make up family dinners to hand out:

- Canned meats (tuna, spam, chicken, etc.)
- Canned fruits & veggies
- Peanut butter & jelly
- Powdered milk
- Packaged side dishes like rice, noodles and potatoes (i.e., Rice-a-Roni, Scalloped Potatoes, Mac & Cheese, etc.)

The neighborhood Center is located at 434 S. Woodland. They do a wonderful service of keeping families going until their lives turn around.

If you want to call them, ask for Brenda at (386) 734-8120 or just drop off your items during normal working hours. If you prefer, drop off items at our office and we will coordinate delivery.

## **Is Your Company Currently Selling Products in Europe?**

Volusia County's Department of Economic Development has received funding to assist area companies interested in expanding their sales in the European Union. Grants are available to assist companies in participating in industry trade shows, conducting market research, arranging for European customers to tour local manufacturing operations, and identifying new customers by scheduling pre-qualified sales meetings with end users, distributors or sales agents. If your company would like to explore potential funding to implement its European trade opportunities, contact Paul Mitchell, Volusia County's international trade specialist at (386) 248-8048.

## **Survival Guide for the Green Industry**

The University of Florida County Agricultural Extension is hosting a workshop on how to survive difficult times in the agricultural/greens industry from 9 a.m. – 2 p.m. Wednesday, September 10, at the Pierson Lions Club. If your business climate is deteriorating and you're worried about your business future, this workshop may be for you. A complimentary lunch will be provided. Register at (386) 822-5778 by September 5.

## **Reevaluate Shareholder Loans**

With all the angst about the economy, high gasoline prices, and the lousy real estate environment, you may not have noticed that most interest rates are near historically low levels. This includes the IRS-approved applicable federal rates (AFRs). In the context of loans from corporations to their shareholders, this is favorable news. Here's why: When a corporation makes a loan to a shareholder, the complicated below-market interest rules apply unless (a) the loan charges an adequate rate of interest (determined by comparison with the applicable AFR) or (b) all loans between the corporation and the shareholder aggregate to the *de minimis* amount of \$10,000 or less. This is extremely important because the IRS can impute additional interest on a loan when the interest rate is below the AFR and then characterize that additional interest as either taxable compensation or a taxable, but nondeductible, dividend.

For the below-market interest rules, *adequate rate of interest* means a rate equal to or higher than the AFR. In other words, when the corporation charges at least the AFR on a shareholder loan, the nasty below-market interest rules are avoided. So, this is usually the tax-smart way to go.

Since the current AFRs are low (around 2.5% for a term of less than 3 years; 3.5% for 3-9 year terms; 4.5% for terms longer than 9 years), now is a great time to take a fresh look at the idea of making additional low-interest loans from corporations to shareholders, replacing existing higher-interest shareholder loans with new ones that charge lower rates, or converting due on demand loans to term loans to lock in the low rates.

Once the AFR is determined, it continues to apply over the life of the loan, regardless of how interest rates may fluctuate. The exception is for a due on demand loan where the AFR is *not* fixed at the time the loan is made. Instead, the AFR is calculated using an annual blended rate that takes monthly AFR changes into account. Since demand loans don't lock in today's low AFRs, term loans are generally preferred—unless you believe future AFRs will be even lower.

This topic might seem rather technical and complicated, but a little time and effort now will help avoid future problems, particularly with the IRS. Should you have any questions about shareholder loans, current AFR, and the consequences of making below-market interest rate loans, please give us a call.

### **Employer-Owned Life Insurance**

Life insurance proceeds are generally excluded from a recipient's gross income. However, in the case of employer-owned life insurance contracts on the life of certain employees, the amount excluded from the applicable policy-holder's income as a death benefit cannot exceed the premiums and other amounts paid by the employer for the contract (this group includes officers, directors and highly compensated employees). In some instances, the excess death benefit is included in income.

The provision, however, allows numerous exceptions. When new notice and consent requirements (discussed below) are met, the income-inclusion rule does not apply if the insured was an employee during the 12-month period before the insured's death or, at the time the contract was issued, was a "highly compensated employee" or a "highly compensated individual" (this group includes greater-than-5% owners, employees earnings over \$100,000 in the preceding year, directors, or any employees in the top 35% of employees ranked by pay). In addition, the rules do not apply if the death benefits are paid to the insured's family, any individual designated by the insured (or to trusts for the benefit of either), or the insured's estate, or if the proceeds are used to purchase an equity interest in the company that owns the policy. The last exception should cover most buy-sell agreements.

The notice (by the employer) and consent (by the employee) requirements provide that before, issuance of the contract, the employee must be notified, in writing, that the employer intends to insure the employee's life, the maximum face amount of the policy for which the employee could be insured, and that the employer will be the beneficiary of the policy. The employee must provide written consent to being insured and must agree that the employer may continue coverage even after the insured terminates employment.

These rules apply to life insurance contracts issued after August 17, 2006 and to preexisting policies with significant increases in death benefits after that date (this may commonly occur in buy-sell situations). The provision also adds new reporting requirements on the employer for contracts issued after that date. Form 8925, filed with the businesses income tax return, is used to meet the reporting requirements.

## **Increased IRS Mileage Rates**

The IRS has increased the optional standard mileage rates for the six-month period from July 1, 2008, through December 31, 2008. Although the IRS normally updates the mileage rates once a year (in the fall for the following calendar year), the IRS made this special adjustment in recognition of the recent run-up in gasoline prices. Taxpayers can use the increased standard rates to figure the deductible costs of operating an auto for business, medical, or moving purposes.

“Rising gas prices are having a major impact on individual Americans. Given the increase in prices, the IRS is adjusting the standard mileage rates to better reflect the real cost of operating an automobile,” said IRS Commissioner Doug Shulman. “We want the reimbursement rate to be fair to taxpayers.”

The rate will increase to 58.5¢ per mile for all business miles driven from July 1, 2008, through December 31, 2008. This is an increase of eight cents per mile from the 50.5¢ rate in effect for the first six months of 2008. The rate for computing deductible medical or moving expenses will also increase by eight cents per mile to 27¢ per mile, up from 19¢ per mile for the first six months of 2008. The rate for providing services for charitable organizations is set by statute, not the IRS, so that rate remains at 14¢ per mile.

## **Filing Requirements for Nonprofits Have Changed**

If you serve on a nonprofit organization’s board of directors, you should be aware of a recent law change that could put the organization’s tax-exempt status at risk. Prior to this change, most exempt organizations, other than churches and their affiliated entities, were required to file an annual return with the IRS. However, entities whose average gross receipts are no more than \$25,000 annually have traditionally been exempt from this requirement. Beginning in 2008, that’s no longer true.

Small tax-exempt organizations must now electronically file Form 990-N with the IRS. This new form must be completed by organizations that are exempt from filing the more complex annual returns because their gross income is below the filing threshold for these returns.

Although the Form 990-N is relatively easy to file, organizations that fail to file it for three consecutive years will lose their tax-exempt status. The only way to regain a tax exemption at that point will be to reapply to the IRS—obviously a costly and time-consuming process.

The deadline for filing Form 990-N is the 15th day of the fifth month after an organization’s year-end. Thus, for organizations using a calendar-year, the deadline for reporting 2007 information has already passed. However, there are no penalties for filing late, as long as the organization does not miss three years in a row and jeopardize its exemption. Nonetheless, it’s important to set up procedures within the organization to make sure the Form 990-N is filed annually as each year’s accounting is concluded. In addition, it is now more critical than ever to adequately record the organization’s gross receipts to determine whether it is eligible to file Form 990-N or if a more robust form must be filed.

## **SEPTEMBER 2008**

### **September 10**

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

## **September 15**

Individuals - Make a payment of your 2008 estimated tax if you are not paying your income tax for the year through withholding (or will not pay in enough that way). Use Form 1040-ES. This is the third installment date for estimated tax in 2008.

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

Corporations - File a 2007 calendar year income tax return (Form 1120 or 1120-A) and pay any tax due. This due date applies only if you timely requested an automatic six-month extension.

Deposit the third installment of estimated income tax for 2008. Use the worksheet Form 1120W to help estimate tax for the year.

S corporations - File a 2007 calendar year income tax return (Form 1120S) and pay any tax due. This due date applies only if you timely requested an automatic six-month extension. Provide each shareholder with a copy of Schedule K-1 (Form 1120S).

## **OCTOBER 2008**

### **October 10**

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 2007 income tax return and pay any tax, interest, and penalties due if you were given an automatic six month extension.

Partnerships. File a 2007 calendar year return (Form 1065). This due date applies only if you were given an automatic six month extension. Provide each partner with a copy of Schedule K-1 (Form 1065) or a substitute Schedule K-1.

Electing large partnerships. File a 2007 calendar year return (Form 1065-B). This due date applies only if you were given an automatic six month extension

### **October 31**

Social Security, Medicare, and withheld income tax. File Form 941 for the third quarter of 2008. 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 13 to file the return.

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