

Cohen Smith & Company, P.A.

NEWSLETTER



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Alert – May 1st Corporate Annual Report



May 1st is the deadline for filing your corporate annual report and paying to renew your active status. Failure to file by this deadline will result in additional fees in the amount of \$400.00.

President Signs Repeal Of Expanded 1099 Requirements

President Obama has signed into law the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayment Act of 2011 (HR4: 1099 Act).

This law repeals both the expanded form 1099 information reporting requirements mandated by last year's health care legislation and also the 1099 reporting requirements imposed on taxpayers who receive rental income enacted as part of last year's Small Business Jobs Act (PL 111-240).

As we have previously reported, in March 2010, the Patient Protection and Affordable Care Act expanded the 1099 reporting requirements to include all payments from businesses aggregating \$600 or more in a calendar year to a single payee, including corporations and to include payments made for property, starting with payments in 2012. The 1099 Act repeals the expansion to payees that include corporations. It also repeals the expansion to cover payments for property. These changes are effective for payments made after December 31, 2011 (when the new rules were to take effect), and they revert those portions to how they were before the Patient Protection and Affordable Care Act.



In addition to the above, the Small Business Jobs Act enacted a requirement that individuals who receive rental income issue Forms 1099 to service providers for payments of \$600 or more. It did this by specifying that “a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.” The 1099 Act strikes this section, in its entirety, effective for payments made after December 31, 2010 (the original effective date of the section), placing individuals who receive income in the same position as if the expanded information reporting requirements had never been enacted. As a result of the repeal, the 1099 reporting rules continue unchanged: namely, “All persons engaged in trade or business and making payment in the course of such trade or

business to another person” of \$600 or more must report the amount and the name and address of the recipient to the IRS and to the recipient. The Code applies this requirement to payments of “rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income,” and the Treasury regulations add, “commissions, fees, and other forms of compensation for services rendered aggregating \$600 or more” as well as interest, royalties and pensions.

This required information must be reported each calendar year for payments made during that calendar year.

Increased Penalties Not Repealed

The 1099 Act did not repeal the increase in the information reporting penalties that were mandated by the Small Business Jobs Act. The first-tier penalty under IRC § 6721 for failure to timely file an information return (Form 1099, W-2, etc.) was increased from \$15 to \$30, and the calendar-year maximum for small business filers from \$25,000 to \$75,000 for the first-tier penalty.

Claiming Bonus Depreciation For Business Property Acquisitions

As the economy picks up, business begins to expand, and the bottom line starts to improve. But, quite often, the tax bill goes up as well. An excellent way to reduce that tax bill is through the use of bonus depreciation. Bonus depreciation is available for qualified property in the year the property is acquired and placed in service. Bonus depreciation is not prorated; therefore, it doesn't matter when during the tax year the property was placed in service. So, even property placed in service on the last day of the tax year is eligible for the full applicable amount.

Bonus depreciation is available for qualifying vehicles via an \$8,000 increase in the first-year luxury auto depreciation limit.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Relief Act) provides for 100% first-year bonus depreciation (i.e., effectively writing off the entire cost of the asset in the year placed in service) for qualified property that is purchased and placed in service after September 8, 2010, and before January 1, 2012 (January 1, 2013, for certain aircraft and long-production-period property). Prior to this legislation, the maximum bonus depreciation allowance percentage had been 50%.

To be eligible for bonus depreciation, the property must meet three broad criteria:

- 1) The asset must be qualified property (defined below),
- 2) The original use must commence with the taxpayer, and
- 3) The property must be acquired and placed in service before January 1, 2012 (January 1, 2013, for certain aircraft and long-production-period property).

Qualified property must also meet one of four definitions:

- 1) The asset is eligible property with a recovery period of 20 years or less.
- 2) The asset is depreciable computer software.
- 3) The property is water utility property.
- 4) The asset is qualified leasehold improvement property.

The term original use generally means the first use of the asset. Simply put, the asset generally must be new, rather than pre-owned; however, there are some exceptions. New property initially used by a taxpayer for personal use and subsequently converted

to business use meets the original-use requirement. Property acquired for use in a taxpayer's business that was previously used by another taxpayer does not qualify regardless of how the previous owner used the property (i.e., for business or personal use). Capital expenditures to recondition or rebuild acquired or owned property satisfy the original use requirement, but purchases of reconditioned or rebuilt assets do not qualify. The determination of whether an asset is reconditioned or rebuilt (i.e., used) is a question of fact. However, an asset that contains used parts will not be considered used if the cost of the used parts is 20% or less of the total cost.

The time to take advantage of the 100% first-year bonus depreciation provision is limited (now through December 31, 2011). If you have any questions, please contact us to discuss the benefits of bonus depreciation or any other tax compliance or planning issue.

Age-Related Planning Milestones



In an era filled with uncertainty, you can count on one thing for sure: time marches on! Listed below are some important age-related tax and financial planning milestones that you should keep in mind. Many of these milestones present tax-saving opportunities.

Age 0–23: The so-called Kiddie Tax rules can potentially apply to your child's or grandchild's investment income above a specified amount until the year he or she reaches age 24. For 2011, the investment income threshold is \$1,900.

Age 50: If you're age 50 or older as of the end of the year, you can make an additional catch-up contribution of up to \$5,500 for 2011 to your 401(k), Section 403(b), or Section 457 plan, or up to \$2,500 for 2011 to your SIMPLE plan, assuming the plan permits catch-up contributions.

You can also make an additional catch-up contribution of up to \$1,000 for 2011 to your traditional or Roth IRA.

Age 55: If you permanently leave your job for any reason, you can receive distributions from the former employer's qualified retirement plan(s) without being hit with the 10% premature withdrawal penalty tax. This is an exception to the general rule that the taxable portion of qualified retirement plan distributions received before age 59½ are subject to the 10% penalty tax.

Age 59½: You can receive distributions from all types of tax-favored retirement plans and accounts [e.g., IRAs, 401(k) accounts, pensions] and from tax-deferred annuities without incurring the 10% premature withdrawal penalty tax. Before age 59½, the 10% penalty tax will hit the taxable portion of distributions unless an exception to the penalty tax applies.

Age 62: You can choose to start receiving social security retirement benefits; however, your benefits will be lower than if you wait until reaching full retirement age, which is age 66 for those born between 1943 and 1954. If you also work before reaching full retirement age, your 2011 social security retirement benefits will be further reduced if your income from working exceeds \$14,160 for 2011.

Age 66: You can start receiving full social security retirement benefits at age 66 if you were born between 1943 and 1954. You won't lose any benefits if you work in years after the year you reach age 66, regardless of

how much money you make in those years. However, if you will reach age 66 this year, your 2011 benefits will be reduced if this year's earnings exceed \$37,680.

Age 70: You can choose to postpone receiving social security retirement benefits until you reach age 70. If you make this choice, your benefits will be higher than if you started earlier.

Age 70½: You generally must begin taking annual required minimum distributions (RMDs) from tax-favored retirement accounts [e.g., traditional IRAs, SEP accounts, 401(k) accounts] and pay the resulting income taxes. (However, you need not take any RMDs from Roth IRAs set up in your name.) The initial RMD is for the year you turn 70½, but you can postpone taking that one until as late as April 1 of the following year. If you choose that option, however, you must take two RMDs in that year: one by the April 1 deadline (the RMD for the previous year), plus another by December 31 (the RMD for the current year). For each subsequent year, you must take another RMD by December 31. There's one more exception: if you're still working after reaching age 70½ and you don't own over 5% of the employer, you can postpone taking any RMDs from the employer's plan(s) until after you've actually retired.

If you or a loved one is, or is about to be, affected by any of these age-related milestones, or if you think your estate plan needs some updating, please contact us if you have questions or want more information.

New Life For Selected Charitable Contributions



The 2010 Tax Relief Act extended numerous federal tax provisions. Among those are two valuable charitable contribution opportunities for individuals. The IRA qualified charitable contributions provision was extended through 2011. Under this provision, IRA owners who have reached age 70½ are allowed to make annual tax-free distributions of up to \$100,000 directly out of their IRAs to charitable organizations.

These donations, called qualified charitable distributions (QCDs), generally do not directly affect the IRA owner's federal income tax bill because funds go directly to the charity. Additionally, the taxpayer does not need to itemize to benefit from this provision, and the QCDs count as IRA required minimum distributions (RMDs). Therefore, charitably inclined seniors with more IRA money than they need, can get a tax break by arranging for tax-free QCDs to take the place of taxable RMDs, and those who do not itemize can effectively get the benefit of the deduction by arranging tax-free QCDs. The QCD break originally expired at the end of 2009 but has been extended through 2011.

Liberalized qualified conservation contribution rules expired at the end of 2009, but were extended through 2011 by the recent 2010 Tax Relief Act. Qualified conservation contributions are charitable donations of real property interests, including remainder interests and easements that restrict the use of real property. For individuals, the maximum write-off for qualified conservation contributions of long-term capital gain property is increased from the normal 30% to 50% of adjusted gross income. For an individual who is a qualified farmer or rancher, the qualified conservation contribution write-off for donated farm or

ranch real property can be as much as 100% of the donor's adjusted gross income. However, the donation must include a usage restriction stating that the property must remain available for agricultural or livestock production. In addition, qualified conservation contributions are not counted when calculating an individual's allowable write-offs for other charitable contributions.

Qualified conservation contributions in excess of what can be written off in the year of the donation can be carried forward for 15 years (only a five-year carryover period was allowed under the previous rules).

If you have any questions, please contact us concerning these or other charitable contribution opportunities.



TAX CALENDAR

April 2011

APRIL 2011

April 11

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

April 18

Individuals. File an individual income tax return for 2010. If you want an automatic six-month extension of time to file your return, file Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return. Alternatively, you can get an extension by phone or over the Internet if you pay part or all of your estimated income tax due with a credit card. Then file Form 1040, 1040A, or 1040EZ by October 17.

If you are not paying your 2011 income tax through withholding (or will not pay in enough tax during the year that way), pay the first installment of your 2011 estimated tax. Use Form 1040-ES.

Note that April 18 is also the deadline for making contributions to IRAs or Roth IRAs for 2010.

Household employers. If you paid cash wages of \$1,700 or more in 2010 to a household employee, file Schedule H (Form 1040) with your income tax return and report any employment taxes. Report any federal unemployment (FUTA) tax on Schedule H if you paid total cash wages of \$1,000 or more in any calendar quarter of 2009 or 2010 to household employees. Also report any income tax you withheld for your household employees.

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

Partnerships/LLCs. File a 2010 calendar year return (Form 1065). Provide each partner with a copy of Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., or a substitute Schedule K-1. If you want an automatic five-month extension of time to file the return and provide Schedule K-1, file Form 7004. Then file Form 1065 by September 15.

Electing large partnerships. File a 2010 calendar year return (Form 1065-B). If you want an automatic five-month extension of time to file the return, file Form 7004. Then file Form 1065-B by September 15.

Trusts and Estates. File a 2010 calendar year return (Form 1041). Provide each beneficiary with a copy of Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc., or a substitute

Schedule K-1. If you want an automatic five-month extension of time to file the return and provide Schedule K-1, file Form 7004. Then file Form 1041 by September 15.

Corporations. Deposit the first installment of estimated income tax for 2011.

Gift Tax Returns. If you made taxable gifts in 2010, file Form 709.

MAY 2011

May 2

If you have employees, a federal unemployment tax (FUTA) deposit is due if the FUTA liability through March 31 exceeds \$500.

The first quarter Form 941 (Employer's Quarterly Federal Tax Return) is also due today (except that you have until May 10 to file if you deposited all taxes for the quarter when they were due).

Employers must file Form UCT-6 with the Florida Department of Revenue.

May 10

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

May 17

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

Other helpful line services



www.IRS.gov www.MyFlorida.com
&
www.Volusia.org