

Cohen Smith & Company, P.A.

NEWSLETTER



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September 2011

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Some Of The Silliest Uses Of Taxpayer Money – According To Senator Tom Coburn (R-OK)

There will be endless arguments about what services we need and how much to charge ourselves for them. What is very clear is that we do lots of goofy things with the taxes we collect already.

“We have a ton of duplication, fraud and wasteful spending,” says Senator Tom Coburn (R-OK), a former obstetrician who came to Capitol Hill as a representative in 1994. A member of the Senate Finance Committee since January 2011, Coburn has earned the nickname “Dr. No” for his penchant for blocking pork-scented projects.

“The only agency that knows all of their programs is the Department of Education, and they produce a 500-page yearly report,” adds Coburn. “We are out of control.”

To get his point across, Coburn and his staff have assembled a collection of curious government outlays in two recent reports: “Wastebook” (published in 2010) and “NSF [National Science Foundation]: Under the Microscope” (2011).” The material would be hilarious if it weren’t true.

Here are some of the most egregious examples from Coburn’s findings.

Unnecessary printing costs: \$930 million

Federal agencies spend an estimated \$2.6 billion on printing. Many of those thees could have been spared-such as the ones used in the \$28 million spent on the daily printing of over 4,500 copies of the congressional records, which are also available online.



Unused buildings (including a “monkey house”): \$175 million

Coburn asserts that the Department of Veterans Affairs spends \$175 million annually on upkeep of hundreds of empty buildings, including an unused “monkey house.” The VA, according to the Dayton Daily News, disputes the figure, claiming it only spent \$34 million a year on such activities-roughly equivalent, using median figures, to the annual income of 560 U.S. families.

Fraudulent tax reimbursements to prisoners: \$112 million

Not only does crime pay, it seems it keeps right on paying.

Streetcar system that runs the same route as the subway system below it: \$47.6 million

Atlanta’s stimulus-funded streetcar project runs from Centennial Olympic Park to Martin Luther King, Jr. Center-the exact

route covered by the existing Metropolitan Atlanta Rapid Transit Authority.

Treadmills for shrimp: \$3 million

Do sick shrimp display the same endurance on a treadmill as healthy shrimps do? No. But now we know for sure, thanks to an amply funded study.

New toilets for Denali National Park in Alaska: \$1.5 million

At 36 toilets, the tab comes to just over \$41,000 per can. (And that doesn’t include a life-time supply of paper!)

Study of baby names: \$1 million

This study aimed to ferret out trends in baby naming. The astounding conclusion: “Popular names are popular with parents.”

Year-End Planning: Take Advantage Of Business Provisions That May Sunset For Good On December 31, 2011



Although it’s only September, taxpayers are well-advised to consider how to make the most of tax breaks that are available

this year but may not be around next year, or may survive only in diluted form.

Given the wrenching political battle that played out in July over deficits and the debt ceiling, many tax provisions expiring at the end of this year may not be given another lease on life. Those provisions that aid a particular industry or group of taxpayers could be the most at risk. This article, reviews some of the tax breaks for businesses that are available right now, but may sunset on December 31, 2011.

Observation: In many cases (for example, expensing and bonus depreciation), the action to take will be to accelerate expenditures, placed-in-service dates, or new hires, to qualify for expiring tax breaks, if doing so makes overall business sense. In other cases, an enterprise needs to consider how losing a tax break would affect business operations and its tax bill after 2011, and make necessary adjustments (e.g. if the differential wage payment credit expires, employers making such payments currently may need to discontinue them or scale them down).

Work Opportunity Tax Credit (WOTC)

The WOTC allows employers who hire members of certain targeted groups to get a credit against income tax of a percentage of first-year wages up to \$6,000 per employee (\$12,000 for qualified veterans; and \$3,000 for qualified summer youth employees). Where the employee is a long-term family assistance (LTFA) recipient, the WOTC is a percentage of the first and second year wages, up to \$10,000 per employee. Generally, the percentage of qualifying wages is 40% of first-year wages; it's 25% for employees who have completed at least 120 hours, but less than 400 hours of service for the employer. For LTFA recipients, it includes an additional 50% of qualified second-year wages. The term "wages" for WOTC purposes doesn't include any amount paid or incurred for an individual who begins work after Dec. 31, 2011. (Code Sec. 51(c) (4))

Tax Deductions

100% bonus depreciation.

The 100% bonus depreciation allowance applies only for qualified property acquired and placed in service after September 8, 2010 and before January 1, 2012 (placed in service before January 1, 2013 for certain aircraft and long-production-period property). For qualified property acquired and placed in service after December 31, 2011 and before January 1, 2013 (placed in service after December 31, 2012 and before

January 1, 2014 for certain aircraft and long-production-period property), a 50% bonus depreciation allowance will apply. (Code Sec 168(k) (1), Code Sec. 168(k)5))

Expensing allowance.

The maximum amount that may be expensed under Code Sec. 179 for tax years beginning in 2010 or 2011 is \$500,000. For tax years beginning in 2012, the maximum amount will be \$125,000 (indexed for inflation with 2006 as the base year). For tax years beginning in 2010 and 2011, the maximum annual expensing amount generally is reduced dollar-for-dollar by the amount of section 179 property placed in service during the tax year in excess of \$2,000,000 (the investment ceiling). For tax years beginning in 2012, the investment ceiling will be \$500,000 (indexed for inflation with 2006 as the base year). (Code Sec. 179(b))



Additionally, if placed in service in a tax year beginning in 2010 or 2011, up to \$250,000 per year of qualified real property is eligible for Code Sec. 179 expensing. (Code Sec. 179(f)(1), Code Sec. 179(f)(3)) Qualified real property is one of the following types of property: (1) qualified leasehold improvement property, (2) qualified restaurant property or (3) qualified retail improvement property (Code Sec. 179(f)(2))

15-year writeoff for specialized realty assets.

Qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property placed in service after December 31, 2011, will no longer be eligible for a 15-year depreciation writeoff under MACRS. (Code Sec. 168(e)(3)(E)(iv), Code Sec. 168(e)(3)(E)(v), and Code Sec. 168(e)(3)(E)(ix)) Instead, such property will have to be depreciated over 39 years.



Combined Business And Vacation Travel

If you go on a business trip within the U.S. and add on some vacation days, you know you can deduct some of your expenses. The question is how much.

First, let's cover just the pure transportation expenses. By this, we mean the costs of getting to and from the scene of your business activity, which includes travel to and from your departure airport, the airfare itself, baggage fees and tips, cabs to and from the destination airport, and so forth. Costs for rail travel or driving your personal car also fit into this category. The bottom line is that your domestic transportation costs are 100% deductible, as long as the primary reason for the trip is business rather than pleasure. On the other hand, if vacation is the *primary* reason for your travel, then generally none of your transportation expenses are deductible.

The IRS does not specify how to determine if the primary reason for domestic travel is business. Obviously, the number of days spent on business versus pleasure is the key factor. We can also look to the rules covering foreign travel for guidance on this issue. These rules say your travel days count as business days, as do weekends and holidays if they fall between days devoted to business, and it would be impractical to return home. "Standby days" (days when your physical presence is required) also count as business days, even if you are not called upon to work on those days. Any other day principally devoted to business activities during normal business hours is also counted as a business day, and so are days when you intended to work, but could not due to reasons beyond your control (local transportation difficulties, power failure, etc.).

You should be able to claim business was the primary reason for a domestic trip whenever the business days exceed the

personal days. Be sure to accumulate proof and keep the proof with your tax records. For example, if your trip is made to attend client meetings, log everything on your daily planner and copy the pages for your tax file. If you attend a convention or training seminar, keep the program and take some notes to show you attended the sessions.

Once at the destination, your out-of-pocket expenses for business days are fully deductible. Out-of-pocket expenses include lodging, hotel tips, meals (subject to the 50% disallowance rule), seminar and convention fees, and cab fare. Expenses for personal days are nondeductible.

Finally, if someone unrelated to the business purpose accompanies you on your business travel, only the additional cost of this person is non-deductible. For example, the single room rate can be deducted, even though the double room rate is only fractionally more. Also, all vehicle business use would be deductible, even if more than one person travels.

Careful planning and attention to record keeping can provide significant tax benefits when considering business travel. Should you have any questions in this area, don't hesitate to give us a call.

Defer Taxes With An Installment Sale



If you are selling commercial real estate (e.g., an apartment or office building) in a difficult market, you may be asked to provide financing to get the deal done. If this is the situation, where at least one payment is received after the tax year in which the sale occurs, you can use the installment sale method to defer a portion of the income tax due on a gain. In fact, unless you elect out, the installment sale method is required by the IRS.

Under the installment sale method, the seller recognizes a portion of each payment as gain when received.

Typically, each payment the seller receives consists of three parts: (1) a return of basis (investment) in the property sold, (2) gain (profit) on the sale, and (3) interest on the installment note. Only the gain and interest portions of each payment are taxable to the seller.

Reporting gain from the disposition of property under the installment sale method allows the seller to spread the tax liability over several years, rather than reporting all in the year of sale. Thus, the seller's payment of tax corresponds with the actual cash flow generated from the sale.

One installment sale pitfall exists that is often overlooked. Sale of property (other than real property) on which depreciation has been claimed requires recapture of the depreciation as ordinary income in the year of sale, even if no proceeds are received. This can cause unexpected results for the unwary.

In addition to the above, several restrictions and limitations exist on the use of the installment sale method. In general, persons who regularly sell or otherwise dispose of personal property on the installment plan or who hold real property for sale to customers in the ordinary course of business ("dealers") can only use the installment sale method for sales of farm property, timeshares, and residential lots. However, in the case of timeshares and residential lots, interest must be computed and paid each year on the deferred tax liability. Also, any item that must be included in ending inventory (e.g., auto parts) is ineligible for the installment sale method.

Example: Deferring taxable gain using the installment sale method.

Tyler is a real estate investor, but is not a dealer in real property. In February 2011, he sold an apartment complex for \$5 million (net of expenses), receiving \$500,000 in cash and a \$4.5 million note. His basis (investment) in the property was \$3 million. The note calls for annual installment payments beginning in February 2012. He will receive interest on the note commensurate with the market and the buyer is not a related party. Tyler will use the installment sale method to report his taxable gain.

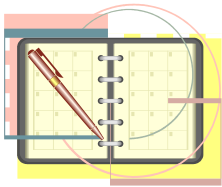
Tyler's total gain on the sale of the apartment complex is \$2 million (the \$5 million sale proceeds, less his \$3 million basis), which is 40% (gross profit ratio) of the selling price. For 2011, he will report a taxable gain of \$200,000, computed by multiplying the \$500,000 received in cash during 2011 by the 40% gross profit ratio. The remaining \$300,000 is a nontaxable return of Tyler's original investment. As installment payments are received beginning in 2012, he will report any interest received and 40% of the principal payment as taxable gain. The remaining 60% of the principal payment is a return of his investment.

In certain circumstances, it may be beneficial to elect out of the installment sale method and report the entire gain in the year of sale.

When the taxpayer has expiring carryovers (i.e., net operating losses, charitable contributions, business credits), reporting the entire gain in the year of sale could allow use of those carryovers and minimize any tax liability. In addition, if you are concerned that capital gain tax rates will increase in the future, it may be advantageous to elect out of installment sale treatment and avoid higher taxes down the road.

This is a somewhat complicated topic, so please contact us if you have any questions regarding using or electing out of the installment sale method of deferring taxable gain.

TAX CALENDAR



SEPTEMBER 2011

September 12

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 2011 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 2011.

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 2010 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 2011. Use the worksheet Form 1120W to help estimate tax for the year.

Partnerships - File a 2010 calendar year return (Form 1065). This due date applies only if you were given an automatic five 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 2010 calendar year return (Form 1065-B). This due date applies only if you were given an automatic six month extension

S corporations - File a 2010 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).

Estates and Trusts - File a 2010 calendar year return (Form 1041). This due date applies only if you were given an automatic five month extension. Provide each beneficiary with a copy of Schedule K-1 (Form 1041).

OCTOBER 2011

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 17

Individuals - File a 2010 income tax return and pay any tax, interest, and penalties due if you were given an automatic six month extension.

Other helpful line services



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

www.MyFlorida.com

www.Volusia.org