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## **Tax Update for 2008**

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This is the time of the year that lends itself to tax planning particularly due to changes passed by Congress this year and anticipated changes in 2009 from newly elected President Barack Obama and the Democratic controlled Congress. This article addresses some notable planning opportunities.

### **Income tax rates**

If you are a high income individual taxpayer, keep in mind that Obama has indicated that he wants to raise the top tax rate to 39.6% for married couples with incomes over \$250,000 and singles over \$200,000. Currently the top rates for these income levels are in the 33 – 35% range. Due to the current state of the economy, this probably will be delayed until 2010.

### **Timing of deductions**

Itemized deductions can be shifted between years. Individual state and local income tax estimates can be paid and mailed in late December to get a deduction in 2008 or paid and mailed by the January due dates to let the deduction fall into 2009. This is also true for January, 2009 mortgage payments whereby the interest portion can be deducted based on payment date in either year.

### **Charitable contributions**

If you are 70 ½ or older and do not need the money in your IRA to live on, you can authorize a direct payment from your IRA to charity. Congress recently restored this tax break for 2008 and 2009. You will not owe tax on the money withdrawn from your IRA and you and your spouse can donate up to \$100,000 each from your separate IRA's annually. You do not get a deduction for the donation, however, but get the benefit of not paying tax on the IRA withdrawal. You also need to have a receipt from the charity receiving the gift before filing your tax return.

### **Alternative Minimum Tax**

The Alternative Minimum Tax (AMT) can negate some of the strategies outlined above if you fall into this category since there are very few deductions in computing this tax. For example, state & local income taxes and home equity interest are not deductible for AMT purposes. With regard to home equity interest for AMT purposes, you can take the deduction if the proceeds are used to buy, build or renovate your principal residence.

## **Energy credits**

Energy credits for energy efficient improvements were reinstated by Congress for 2009. This would apply to biomass fuel stoves, energy-efficient skylights, windows, water-heaters, central air conditioners and outer doors at the rate of 10%. However, no more than \$150 can be claimed for furnaces and water heaters, \$200 for windows and \$300 for biomass stoves. In 2008, only solar water heating equipment and qualified fuel cell property qualified for a tax credit of 30% of the cost, capped at \$2,000. In 2009, this cap is repealed. This credit is not allowed for any equipment used to heat swimming pools or hot tubs. Again, the AMT may affect these credits or other deductions.

## **Retirement**

The ceilings on retirement plan contributions will be higher in 2009. The maximum 401(K) contribution increases to \$16,500 from \$15,500 in 2008. Individuals born before 1960 can contribute up to \$22,000 in 2009.

## **Depreciation**

The 50% Bonus depreciation for companies must have these assets placed in service by December 31 to be eligible for the write-off. This allows half of the asset's cost to be deducted with the balance recovered by regular depreciation. New assets with useful lives of 20 years or less qualify such as machinery and equipment, land improvements and farm buildings. For Section 179 asset write-offs, businesses can expense up to \$250,000 of assets placed in use in 2008. This limit falls to \$133,000 in 2009. Fiscal year-end companies can claim the higher limit for assets placed in service in the 2008/2009 year.

## **Closely held "C" corporations**

"C" corporations should consider paying owners dividends instead of salaries. With owners possibly in higher tax brackets than the 15% top rate on dividends, the savings can many times exceed the additional tax owed by the Corporation by not being able to deduct salaries since dividends paid are not a corporate deduction. The maximum rate on capital gains and dividends will likely increase to 20% from 15% for married taxpayers with adjusted gross incomes over \$250,000 and single taxpayers over \$200,000. This may occur later in 2009 and is not expected to be retroactive.

## **Tax exempt organizations and the new Form 990**

According to our sources, the IRS will be closely monitoring incomplete and inaccurate form 990's including imposing new penalties. Since the 2008 990 forms have a number of new schedules and require more detailed financial information, we understand that the IRS will ask Congress to allow it to impose new penalties for missing information.

## **Capital losses**

You may want to sell your losing stocks during 2008. Capital losses can offset your realized gain and up to \$3,000 of other income. Any excess losses would carry over to 2009. Be aware that you are denied a loss deduction if you buy the identical securities up to 30 days before or after the sale. The denied loss is added to the basis of the replacement security.

The above are some of the many items you should consider as year end approaches and prospectively into 2010. Feel free to call our Firm and schedule an appointment to discuss these or any other issues or questions you may have.

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