LEGACY ADVISORS GROUP

M & A UPDATE®

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Reducing LAST YEAR's Tax Liability

Bart A. Basi, CPA/Attorney at Law
The Center for Financial, Legal & Tax Planning, Inc.

Introduction

The tax year of 2009 has been over for months and you have already filed your taxes, or maybe you haven't. You aren't happy with the return you are getting or maybe you even owe money. You wonder, "Is there anyway to get more money back on my 2009 tax return?" The answer, yes there is a way to get more money back from your 2009 tax year return. The key to doing this? Quite simply, retirement account contributions can be attributed to the previous tax year as long as the contributions are made before April 15 of the following year. The paragraphs below list the types and amounts that can be contributed to various retirement plans in 2010 to receive a tax deduction on your tax return for 2009.

Traditional 401(K)

The 401(K) is a retirement plan which arises from Section 401(K) of the Internal Revenue Code. 401(K)s are generally retirement plans sponsored by employers for their employees. However, specific sections of the code also make it advantageous for self-employed people to use 401(K)s. These self-employed 401(K)s are typically referred to as Solo(K)s, The Self Employed(K), or even the Baby(K). 401(K) contributions are excludible from income.

The annual deductible contribution limit to a 401(K) is $16,500. For those turning 50 and older this year, "a catch-up" or additional contribution of $5,500 is allowed annually. When distributed, the distribution is taxable as ordinary income.

Roth 401(K)

The Roth 401(K) is similar in all respects to the traditional 401(K). However, instead of contributions being deductible, contributions are taxed presently, but not taxed upon distribution. Roth 401(K) contribution limits are the same as traditional 401(K) limits.

Traditional 403(B)

This is generally a government employee retirement plan which is equivalent to the private sector 401(K) plans. The annual contribution limit is $16,500, while allowing a $5500 annual "catch-up" contribution for those 50 and older.

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A CASE STUDY

Two home energy tax credits for homeowners have been expanded starting in 2009. The non-business energy property tax credit is equal to 30% of up to $1,500 of a homeowner's expenses on eligible energy-saving improvements. The $1,500 limit is for the combined 2009 and 2010 tax years. High-efficiency heating and air conditioning system, water heaters and stoves that burn biomass, and the labor costs associated with the installation of these systems qualify. Energy-efficient windows, skylights, and doors, qualifying insulation and certain roofs also qualify, but the cost of installation for these items does not.

Under the Residential energy efficient property credit, electric systems, solar hot water heaters, geothermal heat pumps, wind turbines and fuel cells qualify for up to 30% of what a homeowner spends on them. Generally, this can also include labor costs. There is no cap other than on fuel cell property. This credit runs from 2009 through 2016.

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Roth 403(B)

This retirement plan is the same as the traditional 403(B) (above). However, it allows no deduction for contributions made as any Roth plan does not tax distributions when made, just the same as the Roth 401(K).

Traditional IRA

The traditional IRA is an individual retirement account. These can be set up by an individual at a bank. The annual contribution limit for 2010 is $5000 and the law allows $1000 annual "catch-up" contribution limits for those turning 50 years of age and older this year. Under the traditional IRA, contributions are deductible, but distributions are taxed when made.

Roth IRA

This is also an individual account. The contribution limits are the same as the traditional IRA, however they are not deductible. Staying true to "Roth" form, the contributions are not deductible, but the distributions do not get taxed.

There is also an interesting caveat with the Roth IRA this year. In 2010, those making any amount (including those making over $100,000 per year) are allowed to convert their Traditional IRAs into Roth IRAs. While taxes will have to be paid to account for the difference, some advantages are tax free income in retirement and no required minimum distributions (RMDs) at age 70½, where as with the traditional IRA, RMDs are required. Also, a Roth IRA can be a tax free legacy and the Roth holder has access to the assets of the plan without penalty.

Simplified Employee Plan (SEP)

A SEP is a retirement plan where the employer contributes directly to an IRA of an employee. The employer contributions are excluded from the employee's gross income and an annual contribution of up to $49,000 is allowed. The employee is also allowed to contribute to the plan. SEPs are set up by completing IRS form 5305-SEP and retaining the form as evidence of the plan. The form 5305-SEP is not submitted to the IRS.

SIMPLE IRA

This plan is established by an employer by completing forms 5304-SIMPLE (when the employee can choose the financial institution) or 5305-SIMPLE when the employer chooses the financial institution which will receive the contributions. The annual limit of contributions is $11,500 annually, while allowing $2,500 in annual catch-up contributions.

Conclusion

As blanket advice, it is best to maximize your tax return by investing in your future and your retirement. Contributing money to a retirement plan not only invests in your retirement, but also places the money in a place where creditors are usually unable to garner the money. There is still time to contribute to your retirement plan in order to reduce your taxes payable or increase your return amount. Knowing the basics and amounts that can be contributed to the respective plan is always valuable knowledge to have when you are planning for your retirement. If you have further questions about retirement plans, feel free to call Marcus at The Center for further details.

Dr. Bart A. Basi is an attorney, CPA, and the Senior Advisor of The Center for Financial, Legal & Tax Planning, Inc, a full service company specializing in financial, legal & tax matters. Basi is a nationally recognized author, lecturer, and advisor on how to structure deals to minimize taxes. Tax structure makes the difference between getting the deal done and watching the deal fall apart. Many of you may be familiar with Basi and the topics he covers in the Financial, Legal & Tax Advisory which may be read in various industry-specific trade publications.

A CASE STUDY CONTINUED:

Editor's Comment: These types of tax credits represent great opportunities for taxpayers. Not only do the credits help lower your taxes, the energy costs for your home will be lower too! While the initial outlay to install some of these items can at first seem cost- prohibitive, this cost will more than be made up for through lower utility bills. Also, these credits are beneficial in that those items where the cost for installation also qualifies will help offset some of the initial expense.

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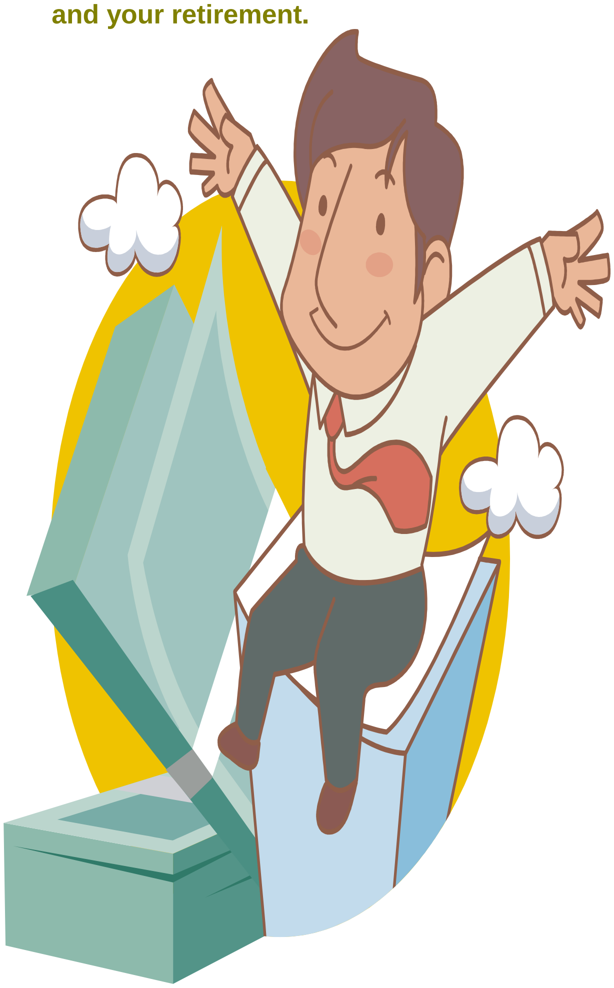
Points of Interest

- **Quite simply, retirement account contributions can be attributed to the previous tax year as long as the contributions are made before April 15 of the following year.**
- **The traditional IRA can be set up by an individual at a bank.**
- **As blanket advice, it is best to maximize your tax return by investing in your future and your retirement.**



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COMMON MISTAKES MADE WHEN SELLING A BUSINESS – PART 2

Mike Ertel, CBI/ M&AMI/ CM&AA

Most business owners have developed a lot of expertise at running their own business, but are not experienced in selling a business. Without professional assistance, they will often make costly mistakes if they attempt to handle the sale of their business on their own. Here is the second in a two-part series on the most common mistakes to avoid:

4. Setting a price too soon. It can be as damaging to set your price too high, as too low. Too low and you miss the opportunity to maximize the return on your years of building a successful business. Too high and you discourage potential buyers from seriously considering your business, and risk creating the appearance that the business is "distressed" because you're forced to make a series of reductions in the selling price. Before putting your business on the market, assess its current, fair market value very carefully, and seek the advice of professionals with proven knowledge and experience in valuing a business like yours.

5. Failing to maintain confidentiality. Once word gets out that the business is being sold some employees may leave, some customers may "hedge their bet" by shifting some of their purchases to your competitors, vendors may hold back on deals and/or tighten their credit policy, and competitors may step up their efforts to steal your customers. The value of your business can drop quickly if you do not maintain confidentiality.

6. Not increasing value. Owners who know well in advance that they want to sell the business have time to build up the value and make it more attractive to buyers. See my earlier article or request a copy of "Value Drivers To Maximize The Selling Price Of Your Business."

7. Wasting time with the wrong buyers. You need to spend time on serious, well-qualified buyers. If a potential buyer is not qualified, or does not appear to be prepared to make an offer, you may very likely be wasting your time, and risking confidentiality.

8. Failing to negotiate. How much leverage you have may depend largely on how many potential buyers are out there. Nonetheless, you need to be prepared to negotiate, and for this reason you should have professional guidance when you sell a business. For the right buyer, you should also be prepared to consider carrying some of the financing.

9. Not using the skills of professionals. You should seek out sound business and legal advice from professionals who have been involved with the sale of other similar businesses. Selling is a complicated process and not one that you should take on without expert assistance.

If you know of a business owner who's thinking of selling or buying a business and who might benefit from a free, confidential, consultation with us, have them contact me at mertel@legacyadvisorsgroup.com

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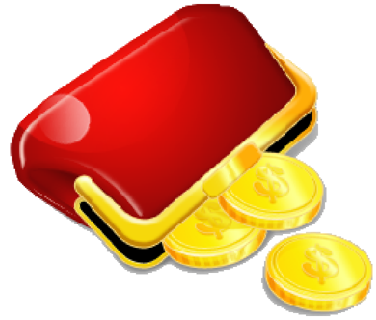

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Frequently Asked Questions…

Q: What is the difference between a living will and a health care power of attorney?

A: For all practical purposes a health care power of attorney gives the power to a proxy to make health care decisions in the event of your incapacity. The living will is an effective document once permanent comatose or death is imminent. Therefore, the health care power of attorney is a directive when normal life is possible beyond treatment. The living will, on the other hand, becomes effective once normal, healthy life is impossible after treatment.

Q: Where is the best place to store estate plan documents?

A: The best place to store estate plan documents is in a secure location that others know of and that is easily accessible. Storing the documents in a safe deposit box that a friend knows of can be a good place as long as that friend knows where to get the keys. Hiding documents in a book or in a safe that no one has the combination for renders the documents useless to both you and those that are trying to help you.

Q: If you lease an item that is generally subject to depreciation, how do you know whether the item is to be expensed as a rental expense or depreciated as an asset?

A: Whether leased assets get depreciated or written off as rent depends on the intent of the parties. If the lease is written in such a way that the agreement resembles a sales contract in that it allows for a bargain purchase at the end of the lease, requires the one leasing the property to maintain the unit, and generally resembles a sale, it is appropriate to expense the item as depreciation. If the agreement leans more towards a rental agreement in that the property must be returned, the payments don't substantially equate to a purchase as opposed to rent, then the item's payments should be expensed as rent.