Legacy ADVISORS GROUP

M & A UPDATE®

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Certain Tax Deductions Set to Expire Soon

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Introduction

Certain tax deductions are set to expire at year's end. Among them are the lower capital gains and dividend tax rates. The decisions you make in these final months of 2010 can have a major impact on your taxes next April. This article will identify some key strategies that should be implemented prior to the end of the year.

First and Foremost

The favorable treatment that capital gains and dividends receive are about to change slightly. Dividend income will go back to ordinary income treatment, and capital gains will revert back to its 20% tax rate. While it is possible the favorable tax rates may be retained for some taxpayers, it is likely or even certain higher earning taxpayers will not enjoy this benefit for much longer. And, while this is true, for those who are not considered "higher income" year-to-year, those selling their businesses WILL likely be "higher income" in the single year they sell their business.

Let's take an example of a business person who earns $65,000 per year. While this person is not high income on a tax year basis, the scenario changes when this person sells the business. In the year of a business sale, it is not uncommon for this person's capital gains and adjusted gross income to go into the high, six-figure range. It is in the year of the sale that capital gains will be calculated and assessed. The result is that even though this taxpayer earned low income on a year-to-year basis, this person will get slammed in the year of the business sale. It goes without saying that for those planning on taking capital gains or dividend income; plan accordingly for potentially big changes ahead.

Deferring Income

The more taxable income you make in 2010, the more taxes you will pay. Therefore, it is logical to defer any ordinary income you can until next year. This is especially true if you or your business will be in a lower tax bracket this year.

For business tax planning, you may want to send out your monthly billing later in the month of December so that any payments are credited and recognized as income in 2011, if you are on the cash method of reporting.

For individuals, if you due a bonus, defer it until next year. (BE CAREFUL – if you have a retirement plan that is based on a percentage of your gross pay for the year, you don't want to reduce your retirement contribution because of your deferred bonus) Finally, you may decide to defer income the more traditional way, by participating in a deferred compensation plan, buying tax deferred treasury securities, or some specific certificates of deposit that allow for deferral of interest income.

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Mike Ertel is a Certified M & A Advisor and a Principal Broker with Legacy Advisors Group, a full-service M & A Advisory firm with an office in Tampa, Florida specializing in representing sellers and buyers of small- to mid-sized companies. Prior to joining Legacy Advisors Group, Mike's business career spanned 30+ years with Fortune 500 and Fortune 1000 Companies, with senior management roles in Marketing, Operations and Logistics. Mike also served as President, COO of a mid-sized Manufacturing company headquartered in Tampa. Mike also holds a BS in Electrical Engineering and an MS in Industrial Administration, both from Purdue.

A CASE STUDY

In a U.S. District Court case, the court ruled that willful intent to prepare and submit false tax returns was a bar to innocent tax relief. In the case, at issue was the admissibility of evidence concerning an individual's tax return containing false and fraudulent information.

The Court properly ruled that it was admissible. Allowing this adverse evidence into the trial destroyed the defendant's case. The defendant's spouse was not liable for thousands of dollars in taxes, for which she would otherwise have been liable.

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Cover Story

Accelerating Deductions

We all hate paying bills, but now is the best time to pay them. Even if you wait to pay them until Dec. 31, you can still deduct them. For business tax planning, buy supplies in December and stock up for the next few months. In addition, the IRS will allow you to deduct the expense if you have charged the item and not yet paid for it as long as you are on the accrual method of reporting. For example, use your company credit card to purchase supplies for January, deduct the expense now, and pay the bill in January.

Individuals, remember to recognize any capital losses that you may have before year end. You are allowed to offset capital gains each year with any losses you incurred, and if the loss isn't fully utilized this year, it can be carried forward to offset future gains to the extent of $3,000 per year. Pay your investment expenses early, including any mortgage interest, real estate taxes, and any state and local taxes.

Beefing up Section 179 Deductions

As part of the Small Business Act of 2010, businesses can now expense up to $500,000 of equipment purchases under section 179 of the Internal Revenue Code. This deduction extends into 2011 as well. Investing now, allows you to utilize another 179 deduction next year as well.

Bonus Depreciation

Bonus Depreciation is back this year and for 2011!!! The bonus amount of the depreciation is now 50% for qualifying property. The provisions of the new law are very similar to the version passed by Congress in 2008.

Charitable Contributions

Businesses and Individuals can make and deduct charitable contributions. Individuals have large deductible limits, generally around 50%. C Corporations are generally limited to 10% of profits. Make an early contribution to your favorite charity. This contribution can include personal property such as clothes and furniture, but remember to keep receipts for future proof of your generosity. Additionally, if the charitable deduction (of noncash items) for the year totals $5000 or more (including C Corporations) a qualified appraisal must be made and attached to the tax return. Utilizing your credit card can be advantageous here as well, as more charities are accepting credit card donations.

Look for Tax Credits

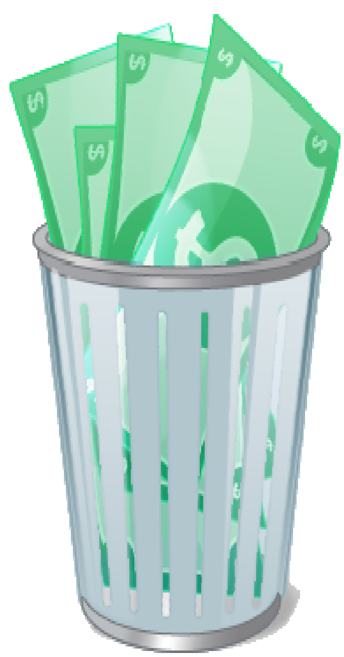
Tax credits are one of the most beneficial tax planning tools available to many individuals today. They are a dollar for dollar credit applied to your taxes due. Some examples for individuals include the Child Tax Credit, Hope Scholarship Credit, and Lifetime Learning Credit. Also, remember to use up any money set aside in a flexible spending account health plan (otherwise known as a "Cafeteria Plan"). The money left in these funds does not typically carry over to the following year.

Conclusion

Lowering taxable income by deferring income, accelerating deductions, giving to charity, and utilizing tax credits, results in lower tax liability. These methods work not only this year, but also year to year.

A CASE STUDY CONTINUED:

Editor's Comment: Many spouses are quite oblivious to the actions that their spouses take in their businesses. Many perceive the other's business to be too complex or not their matter to be involved in. This is far from the truth. When a spouse operates a business, it is very important for the other to be involved enough to know what is going on with the money and especially how the taxes are handled. If income taxes, employment taxes, bills, and the like are not being paid or flat out neglected, the spouse should be concerned enough to take action. Not taking action in cases like this could lead to a life time of insolvency and regret.



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.

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Points of Interest

- **The decisions you make in these final months of 2010 can have a major impact on your taxes next April.**
- **As part of the Small Business Act of 2010, businesses can now expense up to $500,000 of equipment purchase.**
- **If you are considering beginning estate planning, keep in mind that you have until December 31 to take advantage of 2010's gift exemption of $13,000.**

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Words of Wisdom From A Business Owner's Death Bed – Part II

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

This is the conclusion of an article which began last month. To see the entire article, visit our website, www.legacyadvisorsgroup.com

A colleague of mine relayed the following words of wisdom which he acquired from a client that had to sell his company from his death bed. The client and his family dictated these bits of wisdom in one long visit, and I feel privileged to now share them with you:

23. No one is in charge of your happiness except you.
24. Frame every so-called disaster with these words: "In five years, will this matter?"
25. Always choose life.
26. Forgive everyone everything.
27. What other people think of you is none of your business.
28. Time heals almost everything. Give time.
29. However good or bad a situation is it will change.
30. Your job won't take care of you when you are sick. Your friends will. Stay in touch.
31. Believe in miracles.
32. Whatever doesn't kill you really does make you stronger.
33. Growing old beats the alternative -- dying young.
34. Your children get only one childhood. Make it memorable.
35. Get outside every day. Miracles are waiting everywhere.
36. If we all threw our problems in a pile and saw everyone else's, we'd grab ours back.
37 Do not audit life. Show up and make the most of it now.
38. Get rid of anything that isn't useful, beautiful or joyful.
39. All that truly matters in the end is that you loved.
40. Envy is a waste of time. You already have all you need.
41. The best is yet to come.
42. No matter how you feel, get up, dress up and show up.
43. Take a deep breath. It calms the mind.
44. If you don't ask, you don't get.
45. Yield.
46. Life isn't tied with a bow, but it's still a gift.

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On another note, 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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Frequently Asked Questions…

Q: I just opened a business and formed it as a limited liability company under my state's laws. For federal tax purposes, how do I classify my LLC?

A: An LLC may be classified for federal tax purposes as a sole proprietorship, a partnership, or a corporation. If the LLC has only one owner, the LLC will automatically be treated as a sole proprietorship unless another election is made by the owner. On the other hand, if the LLC has two or more owners, it will be classified as a partnership unless an election is made.

Q: I am a sole proprietor. Must I have a tax identification number?

A: The sole proprietor is the only classification of business entity that does not need a tax ID number. However, if the sole proprietor has employees or a pension plan he or she must report, it must have a taxpayer identification number. In the case of the proprietor having no employees or reportable pension obligation, the proprietor's number is his or her social security number.

Q: My father just passed away. Will I have to pay estate taxes on the value of the estate?

A: The estate is responsible for the estate taxes due on the gross value of the estate. This year, there is no estate tax. Next year (in 2011), the gross estate exemption returns to $1,000,000.