Legacy M&A Advisors LLC

M & A UPDATE®

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Late Year Tax Planning 2013

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

Introduction
The leaves are turning, the temperatures are falling, and Christmas is only a couple months away. It is that time of year again! Many people don't want to think about it, but (if you plan properly) the happiest time of the year is just around the corner. The actions you take in these final months of 2013 can have a big effect on your taxes. This advisory will identify some key strategies that should be implemented prior to the end of the year to effectively limit your tax liability.

Beefing Up Section 179 Deductions
Of most importance is Section 179, advanced depreciation. In 2013, the maximum Section 179 deduction is $500,000, Investing now allows you to utilize this valuable enhanced deduction. In 2014, the deduction drops to $25,000. Don't wait; purchase equipment and have it delivered and in use before the end of the year.

Deferring Income
As with any other tax year, the more taxable income your company earns in 2013, the more taxes you and your company 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 as a result of your tax planning.
For business tax planning, send out monthly billing later in the month of December. Because it takes, on average, 25 days to receive payment, any payments received after January 1, 2014 are credited and recognized as income in 2014, provided your business is on the cash method of accounting.

For individuals, if you are to receive 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 do not want to reduce your retirement contribution because of your deferred bonus.)

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A CASE STUDY

Family Limited Partnership

The Ninth Circuit Court of Appeals confirmed a judgment from the Tax Court and took stood with a victory for the IRS. In the case fact pattern, a husband formed an LLC. The husband then funded the LLC with real estate, securities, and cash. He then gave a 50% interest to his wife with a proper document. Upon his death, his wife gave a 50% interest to their children and grandchildren. The assets were then still used in a personal, not a business manner.

Upon review of the situation, the IRS disagreed with the tax position of the decedent and estate in so far as the assets were used personally. In Tax Court, the court sided with the IRS and agreed that the decedent retained economic benefit from the supposed transfer. Further the transfer had no valid tax reason, the transactions were not from arms length transactions, and the partners did not follow partnership formalities.

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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 a given bill on December 31, you can still deduct the payment in 2013. 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.

Bonus Depreciation

In January 2013, bonus depreciation became limited to 50% of the qualifying, original use property. On January 1, 2014, bonus depreciation largely disappears. What will remain for 2014 are items of long production property only.

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 clothing 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. Also - If you are considering beginning estate planning, keep in mind that you have until December 31 to take advantage of 2013's gift exemption of $14,000.

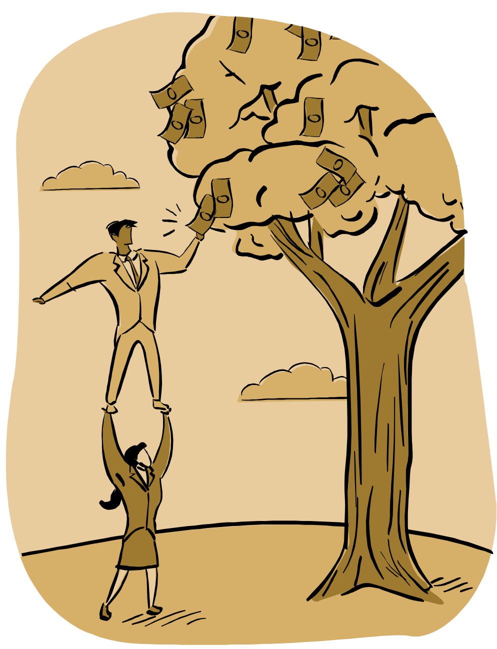
Conclusion

By utilizing these year-end tax strategies, you can reduce your tax liability for the year. 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.

The Center routinely examines tax situations and engages in tax planning, business succession, and estate planning.

Points of Interest

- **Many people don't want to think about it, but (if you plan properly) the happiest time of the year is just around the corner.**
- **If you are considering beginning estate planning, keep in mind that you have until December 31 to take advantage of 2013's gift exemption of $14,000.**
- **Lowering taxable income by deferring income, accelerating deductions, giving to charity, and utilizing tax credits, results in lower tax liability.**



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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A CASE STUDY CONTINUED:

Editor's Comment: In yet another FLP/FLLC case, another example of the FLP/FLLC being messed up. FLP's have their place in estate planning, but FLP's are not a one size fits all circumstance. Once assets are transferred to an LLC, the assets must be utilized properly (in a business usage) to avoid violating the use of the estate planning. There are methods to get some personal use form the assets, but the taxpayers must be careful. Many business owners have condominiums and houses they can include in a business, but they may also use them personally as well. This is permissible, but certain rules and procedures must be followed in order to shed the appearance of only personal use.

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5 Things You Should Never Say While Negotiating – Part 1

This is the first of a two-part article adapted from a Jan 2011 INC. Magazine article of the same title.

Every business owner spends some time negotiating, whether it is with customers, suppliers, investors, or would-be employees. Most business owners are street smart, and seem to naturally perform well in negotiations. You probably have a trick or two—some magic phrases to say, perhaps—that can help you gain the upperhand. But, often, the moment you get into trouble in a negotiation is when something careless just slips out. If you are new to negotiation, or feel it is an area where you can improve, check out these tips on precisely what not to say.

1. "I'm the final decision maker." At the beginning of many negotiations, someone will typically ask, "Who are the key stakeholders on your side, and is everyone needed to make the decision in the room?" For most entrepreneurs, the answer, of course, is "Yes." Who besides you is ever needed to make a decision? Isn't one of the joys of being an entrepreneur that you get to call the shots? Yet in negotiations, particularly with larger organizations, this can be a trap. You almost always want to establish at the beginning of a negotiation that there is some higher authority with whom you must speak prior to saying yes. In a business owner's case, that mysterious overlord could be a key investor, a partner, or the members of your advisory board. The point is, while you will almost certainly be making the decision yourself, you do not want the opposing negotiators to know that you are the final decision maker, just in case you get cornered as the conversation develops. Particularly in a high-stakes deal, you will almost certainly benefit from taking an extra 24 hours to think through the terms. For once, be (falsely) humble: pretend like you aren't the person who makes all of the decisions.

2. The word "between." It often feels reasonable—and therefore like progress—to throw out a range. With a customer, that may mean saying "I can do this for between $10,000 and $15,000." With a potential hire, you could be tempted to say, "You can start between April 1 and April 15." But that word between tends to be tantamount to a concession, and any shrewd negotiator with whom you deal will swiftly zero-in on the cheaper price or the later deadline. In other words, you will find that by saying the word between you will automatically have conceded ground without extracting anything in return.

3. "I think we're close." We've all experienced deal fatigue: The moment when you want so badly to complete a deal that you signal to the other side that you are ready to settle on the details and move forward. The problem with arriving at this crossroads, and announcing you're there, is that you have just indicated that you value simply reaching an agreement over getting what you actually want. And a skilled negotiator on the other side may well use this moment as an opportunity to stall, and thus to negotiate further concessions. Unless you actually face extreme time pressure, you shouldn't be the party to point out that the clock is loudly ticking in the background. Create a situation in which your counterpart is as eager to finalize the negotiation (or, better yet: more eager!) than you are.

To be continued…

If you know of someone who's thinking of selling or buying a business and who might benefit from a free, confidential, consultation, have them contact me directly at 813.299.7862, or mertel@lmaallc.com

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Frequently Asked Questions…

Q. I heard from a promoter that Family Limited Partnerships are the ideal way to set up a family business in most cases. Is this true?

A. No. Many promoters push their product having very little knowledge of the subject content that they are selling. It would be like saying that a high top, tennis shoe is the only shoe you will ever need. The other bad part is that many families that set up FLPs tend to avoid the details that are critical to make the FLP work for estate planning issues.

Q. I currently have employees that do not carry health insurance. What should they do?

A. Because the insurance exchange websites are up and running as of October 1st, it is recommended that they at least visit healthcare.gov for their state and follow the instructions to see if they will qualify for Medicaid or insurance under the exchanges.

Q. What does the government shutdown mean for me?

A. Unfortunately, the government shut down as of 12:01am, on Tuesday morning. It means a bunch of things to many businesses. If you need to deal with the IRS or any other governmental entity at the federal level, you will face a longer wait time and more hassle. The healthcare exchanges are up and running as planned for those in need.