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Practice Success
Fall/Winter 2012 Newsletter

This newsletter is in a different format since we have so much information to include. As it gets closer to year end, focus seems to turn more towards taxes. Tax planning this year is like shooting at a moving target since there is so much policy undecided, but we have done our best to explain what is happening.

We get a lot of questions about what can be done to reduce taxes this time of year and it increases as we get closer to the end of the year. There are constant programs and articles written devoted to yearend tax savings ideas. Some of these tout tax advice that wouldn't stand up in any audit. There are companies that do nothing but offer you hollow promises of thousands of dollars in tax savings. Other times, a colleague will tell you that they take certain deductions when in actuality, they don't. They just don't understand what is really happening and without meaning to misrepresent it. Do your homework. There are good suggestions, articles and programs out there too, so you have to sift through them to find the good ones to enable you to make educated and informed choices. We attended a good tax seminar a few years ago and the presenter used the phrase: "Pigs get fed; hogs get slaughtered." Keep this in mind as you make your way through the deduction discussions. Now, here are some of our suggestions……

Business or staff meetings. If you own a home that has space to support a staff or corporate meeting, use it and pay yourself the rental income. Contact local conference spaces to find the current cost and use that amount. Usually, travel and entertainment costs involve dining out with business contacts or occur while obtaining continuing education; these costs are limited to 50% for tax deductions. However, if you purchase food for staff meetings held at your office, the cost of the food is tax deductible at 100%. This can also be used for holiday parties held off-premises. Make sure you make proper notes of this so the deductions can be taken appropriately.

Staff bonuses. An often abused payroll tax issue involves withholding taxes on staff bonuses. Any staff bonuses - yearend, Christmas, or other - MUST be treated as payroll checks and the appropriate taxes withheld. Many employers choose to "gross up" the check so the employee receives an even amount. Our office can help determine the necessary tax withholdings.

Use of image. An ideal way of involving your children in your practice is to give them a modeling contract and pay them a wage (set by the Screen Actors Guild) for using their images in your advertising, website and office photos. Have the wages put into the child's IRA account for even more tax benefits. Contact our office to find out more about this advantageous advertising strategy.

Marketing or Contributions? Although both marketing expense and charitable contributions give you tax deductions, there may be an overall advantage to a charitable contribution being considered a marketing contribution. The added benefit is due to the marketing exposure you will receive from the contribution in addition to the association you have achieved in providing support to your community. In order to claim the marketing or advertising expense for your business, you need to have derived an advertising benefit or by not providing a contribution it would negatively impact your business. Be sure to make proper notes.

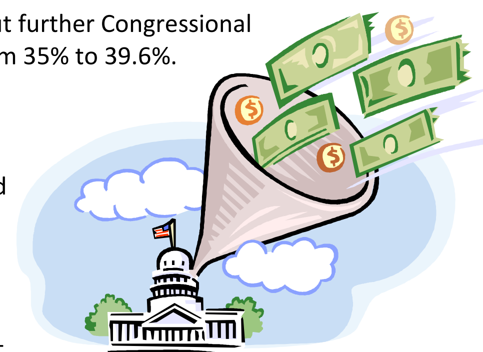
Independent Contractors. Current rules require any person performing services as a business that is not incorporated to be issued a 1099 if the service exceeds $600 in a calendar year. This includes temporary staff or people hired to do building or equipment maintenance. Obtain an Employer Identification Number (EIN) from the service provider before you pay them and you will be better prepared to issue the form 1099 at year end.

Life insurance. The cash surrender values of a life insurance policy inside your investment portfolio can continue to build free of income or Medicare taxes. Contact us for help in deciding if this is a good option for you.

Retirement Plan Contributions. Don't forget contributions to a qualified retirement account will reduce your MAGI, thus reducing your Medicare surtax, and the distributions will not be considered net investment income.

2012 Year-End Tax Planning For Individuals

2012 began with great uncertainty over federal tax policy and now, with the end of the year approaching, that uncertainty appears to be far from any long-term resolution. A host of reduced tax rates, credits, deductions, and other incentives (collectively called the "Bush-era" tax cuts) are scheduled to expire after December 31, 2012. To further complicate planning, over 50 tax extenders are up for renewal, either having expired at the end of 2011 or scheduled to expire after 2012. At the same time, the federal government will be under sequestration, which imposes across-the-board spending cuts after 2012. The combination of all these events has many referring to 2013 as "taxmeggedon."



Expiring incentives. Effective January 1, 2013, the individual income tax rates, without further Congressional action, are scheduled to increase across-the-board, with the highest rate jumping from 35% to 39.6%. The current 10% rate will expire and marriage penalty relief will sunset. Additionally, the current tax-favorable capital gains and dividends tax rates (15% for taxpayers in the 25% bracket rate and above and 0% for all other taxpayers) are scheduled to expire. Higher income taxpayers will also be subject to revived limitations on itemized deductions and their personal exemptions. The child tax credit, one of the most popular incentives in the Tax Code, will be cut in half. Millions of taxpayers would be liable for the alternative minimum tax (AMT) because of expiration of the AMT "patch." Countless other incentives for individuals would either disappear or be substantially reduced after 2012. While a divided Congress may indeed act to prevent some or all of these tax increases, a year-end planning strategy that protects against "worst-case" situations may be especially wise to consider this year.

Year-end planning.

Income tax withholding. Expiration of reduced individual tax rates will have an immediate impact. Income tax withholding on payrolls will immediately reflect the increased rates. One strategy to avoid being surprised in 2013 is to adjust your income tax withholding. The payroll tax holiday, which reduced the employee-share of Social Security (OASDI) taxes from 6.2 percent to 4.2 percent through 2012 and provided a comparable benefit to self-employed individuals, is scheduled to expire after 2012. So it is a good time to review if you are having too much or too little federal income tax withheld from your pay. At this time, it is unclear if the payroll tax holiday will be extended into 2013.

As mentioned, traditional year-end planning techniques should be considered along with some variations on those strategies. Instead of shifting income into a future year, taxpayers may want to recognize income in 2012, when lower tax rates are available, rather than shift income to 2013. Another valuable year-end strategy is to "run the numbers" for regular tax liability and AMT liability. Taxpayers may want to explore if certain deductions should be more evenly divided between 2012 and 2013, and which deductions may qualify, or will not be as valuable for AMT purposes.

Harvesting Losses. Now is also a good time to consider tax loss harvesting strategies to offset current gains or to accumulate losses to offset future gains (which may be taxed at a higher rate). The first consideration is to identify whether an investment qualifies for either a short-term or long-term capital gains status, because you must first balance short-term gains with short-term losses and long-term gains with long-term losses. Remember also that the "wash sale rule" generally prohibits you from claiming a tax-deductible loss on a security if you repurchase the same or a substantially identical asset within 30 days of the sale.

Education expenses. Taxpayers with higher educational expenses may want to consider the scheduled expiration of the American Opportunity Tax Credit (AOTC) after 2012 in their plans. The AOTC (an enhanced version of the HOPE education credit) reaches the sum of 100 percent of the first $2,000 of qualified expenses and 25% of the next $2,000 of qualified expenses, subject to income limits. If possible, pre-paying 2013 educational expenses before year-end 2012 could make the expenses eligible for the AOTC before it expires. Another popular education tax incentive, the Lifetime Learning Credit, is not scheduled to expire after 2012.

Job search expenses. Some expenses related to a job search may be tax deductible. There is one important limitation: the expenses must be spent on a job search in your current occupation. You may not deduct expenses you incur while looking for a job in a new occupation. Examples of job search expenses are unreimbursed employment and outplacement agency fees you pay while looking for a job in your present occupation. Travel expenses to look for a new job may be deductible. The amount of job search expenses that you can claim on your tax return is limited. You can claim the amount of expenses only to the extent that they, together with other "miscellaneous" deductions exceed two percent of your adjusted gross income.

Gifts. Gift-giving as a year-end tax strategy should not be overlooked. The annual gift tax exclusion per recipient for which no gift tax is due is $13,000 for 2012. Married couples may make combined tax-free gifts of $26,000 to each recipient. Use of the lifetime gift tax exclusion amount ($5.12 million for 2012) should also be considered. Without Congressional action, the exclusion amount drops to $1 million in 2013.

Charitable giving. For many individuals, charitable giving is also a part of their year-end tax strategy. Under current law, the so-called "Pease limitation" (named for the member of Congress who sponsored the law) is scheduled to be revived after 2012.The Pease limitation generally requires higher income individuals to reduce their tax deductions by certain amounts, including their charitable deductions. A special rule for contributing IRA assets to a charity by individuals age 70 ½ and older expired after 2011 but could be renewed for 2012.

More changes for 2013. Many employers with health Flexible Spending Arrangements (health FSAs) limit salary reduction contributions to between $2,500 and $5,000. Effective 2013, the Patient Protection and Affordable Care Act (PPACA, commonly called Obamacare) requires health FSAs under a cafeteria plan to limit contributions through salary reductions to $2,500. After 2013, the $2,500 limitation is scheduled to be adjusted for inflation. Individuals with unused health FSA dollars should consider spending them before year-end, or a 2 ½ month grace period if applicable, to avoid the "use it or lose it" rule. Keep in mind that health FSA dollars cannot be used for over-the-counter medications (except for insulin) after 2011.

Additionally, the threshold to claim an itemized deduction for unreimbursed medical expenses increases from 7.5% of adjusted gross income (AGI) to 10% of AGI after 2012. The PPACA provides temporary exceptions for individuals (or their spouses) that are age 65 and older. This exception ends after 2017. While many medical expenses cannot be timed for tax-deduction purposes, batching expenses into 2012, when the threshold is 7.5%, may make it more likely that the expenses will exceed that threshold.

Looking ahead. In July 2012, the House and Senate passed competing bills to extend many of the expiring incentives one more year. Both bills would extend the current income tax rates (10, 15, 25, 28, 33, and 35 percent) through 2013. The House bill would extend the current capital gains and dividends treatment, but the Senate bill would extend the tax favorable rates only for individuals with incomes below $200,000 (families with incomes below $250,000). For income in excess of $200,000/$250,000 the tax rate on capital gains and dividends would be 20%. Both bills would extend the $1,000 child tax credit through 2013 and provide for an AMT patch for 2012 (the House bill also provides an AMT patch for 2013).

At this time, it is increasingly likely that the fate of all the expiring tax provisions will be decided by the lame-duck Congress after the November elections. Although the House and Senate bills passed in July differ, they have many points in common; the most important being that lawmakers could agree on a one-year extension of the Bush-era tax cuts. However, some observers anticipate no resolution until January 2013 or beyond.

Today's uncertainty makes doing nothing or adopting a wait and see attitude very tempting. Multi-year tax planning, which takes into account a variety of possible scenarios and outcomes, however, can provide a win-win combination regardless of what happens. Please contact our office for more details on how we can customize a tax strategy for you in uncertain times.

2012 Year-End Tax Planning For Businesses

In recent years, end-of-the-year tax planning for businesses has been complicated by uncertainty over the future availability of many tax incentives. This year is no different. In 2010, Congress extended many business tax incentives for one or two years. Now, those incentives have expired or are scheduled to expire. Whether they will be extended beyond 2012 is unclear as Congress debates the fate the Bush-era tax cuts and across-the-board spending cuts scheduled to take effect in 2013. In the meantime, you need to be aware of the expiring provisions and explore developing a multiyear tax strategy that takes into account various scenarios for the future of these incentives.

Code Sec. 179 expensing. Code Sec. 179 gives businesses the option of claiming a deduction for the cost of qualified property all in its first year of use rather than claiming depreciation over a period of years. For 2010 and 2011, the Code Sec. 179 dollar limitation was $500,000 with a $2 million investment ceiling. The dollar limitation for 2012 is $139,000 with a $560,000 investment ceiling. Under current law, the Code Sec. 179 dollar limit is scheduled to drop to $25,000 for 2013 with a $200,000 investment ceiling.

Businesses should consider accelerating purchases into 2012 to take advantage of the still generous Code Sec. 179 expensing. Qualified property must be tangible personal property, which you actively use in your business, and for which a depreciation deduction would be allowed. Qualified property must be newly purchased new or used property, rather than property you previously owned but recently converted to business use. Examples of types of property that would qualify for Code Sec. 179 expensing are office equipment or equipment used in the manufacturing process. Additionally, Code Sec. 179 expensing is allowed for off-the-shelf computer software placed in service in tax years beginning before 2013.

If your equipment purchases for the year exceed the expensing dollar limit, you can decide to split your expensing election among the new assets any way you choose. If you have a choice, it may be more valuable to expense assets with the longest depreciation periods. As long as you start using your newly purchased business equipment before the end of the tax year, you get the entire expensing deduction for that year. The amount that can be expensed depends upon the date the qualified property is placed in service; not when the qualified property is purchased or paid for.

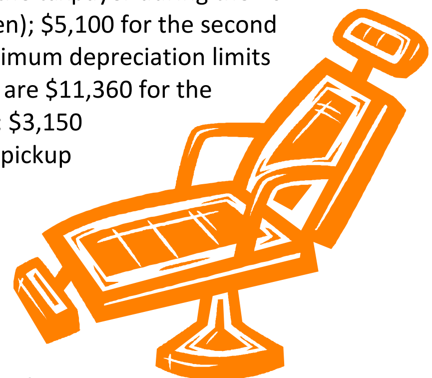
Again, as we always caution you – do not purchase equipment just to get a tax deduction. Purchase it because you need it or because it will generate a new revenue stream. Spending a dollar to save 30 or 40 cents of tax never makes sense.

Congress could raise the Code Sec. 179 dollar limit and investment ceiling for 2013. In July 2012, the Senate voted to increase the Code Sec. 179 dollar amount to $250,000 with an $800,000 investment limitation for tax years beginning after December 31, 2012. The House voted to increase the Code Sec. 179 dollar amount to $100,000 with a $400,000 investment limitation for tax years beginning after December 31, 2012.

Bonus depreciation. The first-year 50 percent bonus depreciation deduction is scheduled to expire after 2012 (2013 in the case of certain longer-production period property and certain transportation property). Unlike the Section 179 expense deduction, the bonus depreciation deduction is not limited to smaller companies or capped at a certain dollar level. To be eligible for bonus depreciation, qualified property must be depreciable under Modified Accelerated Cost Recovery System (MACRS) and have a recovery period of 20 years or less. The property must be new and placed in service before January 1, 2013 (January 1, 2014 for certain longer-production period property and certain transportation property).

Businesses also need to keep in mind the relationship of bonus depreciation and the vehicle depreciation dollar limits. Code Sec. 280F imposes dollar limitations on the depreciation deduction

for the year a taxpayer places a passenger automobile in service within a business, and for each succeeding year. The maximum depreciation limits under this code for passenger automobiles first placed in service by the taxpayer during the 2012 calendar year are: $11,160 for the first tax year ($3,160 if bonus depreciation is not taken); $5,100 for the second tax year; $3,050 for the third tax year; and $1,875 for each tax year thereafter. The maximum depreciation limits under this code for trucks and vans first placed in service during the 2012 calendar year are $11,360 for the first tax year ($3,360 if bonus depreciation is not taken); $5,300 for the second tax year; $3,150 for the third tax year; and $1,875 for each tax year thereafter. Sport utility vehicles and pickup trucks with a gross vehicle weight rating in excess of 6,000 pounds are exempt from the luxury vehicle depreciation caps. Code Sec. 168 increases the first-year depreciation allowed for vehicles subject to the Code Sec. 280F luxury-vehicle limits, unless the taxpayer elects out, by $8,000, to which the additional first-year depreciation deduction applies.



Dividends. Under current law, tax-favorable dividends tax rates are scheduled to expire after 2012. Qualified dividends are eligible for a maximum 20 percent tax rate for taxpayers in the 25 percent and higher brackets; zero percent for taxpayers in the 10 and 15 percent brackets. In July, the House voted to extend the current dividend tax treatment through 2013. The Senate, however, voted to extend the current tax favorable rates only for individuals with incomes below $200,000 (families with incomes below $250,000). For income in excess of $200,000/$250,000 the tax rate on qualified dividends would be 20 percent.

If Congress takes no action, qualified dividends will be taxed at the ordinary income tax rates after 2012 (with the highest rate scheduled to be 39.6 percent not taking into account the 3.8 percent Medicare contribution tax for higher income individuals).

Expiring business tax incentives. Many temporary business tax incentives expired at the end of 2011. In past years, Congress has routinely extended these incentives, often retroactively, but this year may be different. Confronted with the federal budget deficit and across-the-board spending cuts scheduled to take effect in 2013, lawmakers allow some of the business tax extenders to expire permanently. Certain extenders, however, have bipartisan support and are likely to be extended.

Small employer health insurance credit. A potentially valuable tax incentive has often been overlooked by small businesses, according to reports. Employers with 10 or fewer full-time employees (FTEs) paying average annual wages of not more than $25,000 may be eligible for a maximum tax credit of 35 percent on health insurance premiums paid for tax years beginning in 2010 through 2013. This credit is subject to phase-out rules. The credit is reduced by 6.667 percent for each FTE in excess of 10 employees. The credit is also reduced by four percent for each $1,000 that average annual compensation paid to the employees exceeds $25,000. This means that the credit completely phases out if an employer has 25 or more FTEs and pays $50,000 or more in average annual wages. We routinely run these calculations to see who can receive the tax credit.

The credit is scheduled to climb to 50 percent of qualified premium costs paid by for-profit employers for tax years beginning in 2014 and 2015. However, an employer may claim the tax credit after 2013 only if it offers one or more qualified health plans through a state insurance exchange.

Wage Adjustments. Social Security Cost of Living Adjustment (COLA) for 2013 is 1.7%. Many employers base their employee's raises on the COLA.

Planning. Today's uncertainty makes doing nothing or adopting a wait and see attitude very tempting. Instead, multi-year tax planning, which takes into account a variety of possible scenarios and outcomes, should be built into your approach. Please contact our office for more details on developing a tax strategy in uncertain times that includes consideration of certain tax-advantaged steps that may be taken before year-end 2012.

New 3.8% Additional Medicare Tax; Potential Reduction In Estate Tax Exemption

As you know, our firm likes to be proactive in tax planning with our clients. If the Bush-era tax cuts expire at the end of 2012, there will be dramatic tax increases for some clients. Amongst the changes scheduled for 2013 are:

- Reinstatement of the 36% and 39.6% income tax brackets.
- Qualified dividends taxed at ordinary income tax rates.
- Long-term capital gains taxed at 20%.
- Also, the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (new Obama health care law) tax provisions include a new 3.8% Medicare surtax on net investment income of higher-income individuals. This will impact many individuals' tax rates on dividends, interest, capital gains, and/or rental income (PAGI - passive activity gross income). This tax applies to clients who have modified adjusted gross incomes (MAGI) above:

Category	MAGI Threshold
Married Filing Jointly	$250,000
Single	$200,000
Married Filing Separately	$125,000

The tax rate (3.8%) is applied to the lesser of: (1) net investment income or (2) the excess of MAGI over the MAGI thresholds above.

Tax Planning. There are a number of tax planning techniques that may help you with this new 3.8% additional Medicare tax. For example, if you are considering the sale of a vacation home, you could sell it in 2012 instead of 2013 to avoid the 3.8% tax. Other tax changes also need to be examined. For example, if the Bush-era tax cuts expire at the end of 2012, the estate tax exemption will reset back to $1,000,000 from the current amount of $5,120,000. Many clients are currently engaging in strategies (eg: gifts, gifts into trusts, Grantor Retained Annuity Trusts, etc.) to utilize the tax benefits available right now. Again, tax planning in this area is complex and requires careful analysis before taking action.

Our firm is prepared to perform complex tax planning projections for you and to carefully analyze the federal tax consequences of any proposed strategies, transactions, etc.

Medical Devise Excise Tax

There is a new tax on the horizon to start January 1, 2013 - medical device excise tax which is imposed as part of the Affordable Care Act (ACA) on the sale of certain medical devices by the manufacturer, producer or importer of the device. The tax is 2.3% of the price that the manufacturer or importer sells the taxable medical device. A taxable device "generally must be implanted, inserted, operated, or otherwise administered by a medical professional."

There are exceptions for sales for export and for further manufacture. It will not be imposed on devices that are generally purchased by the general public at retail for individual use. It specifically exempts eyeglasses, contact lenses and hearing aids from being taxed.

Unfortunately, the regulations do not exempt dental devices manufactured by dental laboratories or orthodontic manufacturers. There is no statutory basis for treating dental devices differently from other taxable medical devices. Many dental instruments and equipment items are subject to the FDA's listing requirement.

The regulations do not offer specific guidance for Cerec or E4D users. But the term "manufacturer" means any person who produces a taxable article from scrap, salvage or junk material or from new or raw material, by processing, manipulating or changing the form of an article or by combining or assembling two or more articles. This will lead to the illogical conclusion that a crown produced by a dentist (or lab) will be taxable, but a denture or removable partial will not.

The regulations do not address the time and manner for reporting and paying the excise tax, but as the tax is to be reported on Form 720, we would assume that the current rules for filing that form would be applied to this tax. The form would be filed quarterly due on the last day of the month following the close of the quarter. A semimonthly deposit of the excise tax is expected to be required by the 14th day following the close of each semimonthly period. Electronic depositing of the tax may be required.

We will keep watching for more detailed instructions as to what items are considered taxable for this excise tax.

Final Thoughts in Preparing for a Successful New Year

Human resource needs always remain a key topic in running a business. A great way to start the New Year as an employer is to ensure you effectively utilize one of your most valuable assets – your employees. By staffing your business with the right employees and ensuring your employees are equipped with the resources to do their best, you not only help your business grow, but also can ensure that you are protected against liability.

Bent Ericksen Human Resource Training Partner. A valuable service we offer our clients is Human Resource Consulting. Our use of Bent Ericksen Human Resource Training and Implementation enables us to assist you with staffing, training, communication and teambuilding. The better equipped you are in hiring, training and treatment of employees, the better protected you will be against adverse actions by employees. An article provided by Bent Ericksen recently reminds us a key part of staff planning and company protection begins with job descriptions. Employees can become confused about job responsibilities without clear, updated job descriptions. Outdated and inaccurate job descriptions can lead to legal problems. Make sure you have a job description for every position and make changes to them as employee's responsibilities change. Provide employees with a written copy of their job descriptions and make sure the descriptions include the following information:

1. Job Title
2. Appropriate Qualifications for Position
3. Accurate Requirements for the Job
4. Basic Job Description and Employee Responsibilities
5. Easy to Understand Job Functions
6. Clear Performance Standards
7. Make sure job descriptions stray from any reference to age, race, gender, religion, disability, or any other "protected" characteristic.