

CLIENT ALERT

Time running out for 2009 tax planning strategies

December 2009

The year isn't over yet! You still have time to take advantage of tax-planning strategies that could help reduce your 2009 liability. In this letter, we have summarized strategies that are available for the 2009 tax year for homeowners, businesses employees and families.

Some of these items require action by December 31, so we encourage you to contact your tax advisor to discuss which strategies might be right for you.

SALES TAX DEDUCTIONS

Sales tax paid on new auto purchases. For 2009, you can deduct state and local sales and excise taxes on purchases of new (not used) passenger autos, pickups, and SUVs, as well as motorcycles and RVs made between February 17, 2009 and December 31, 2009. The write-off is limited to the amount of taxes on the first \$49,500 of the purchase price per vehicle. You can claim the break whether you itemize or not, and it is allowed even if you owe alternative minimum tax (AMT). However, a phase-out rule can reduce or completely eliminate the break if your adjusted gross income exceeds \$250,000 (\$125,000 if you are single).

TIPS FOR HOMEBUYERS AND HOMEOWNERS

First-time homebuyer. A new law signed in November extends the tax credit for first-time homebuyers into 2010. If you or a family member are thinking of becoming a first-time homebuyer, enter into a contract by April 30, 2010 and close on or before June 30, 2010, in order to qualify for up to \$8,000 in tax credits.

Other homebuyers. Also under the new law, those who have lived in the same principal residence for five of the last eight years are eligible to claim a credit of \$6,500 if they purchase a new home by June 30, 2010 (and enter into a contract by April 30, 2010). Under these rules, the new home must be your primary residence, so you do not have to sell your previous residence to qualify. Income and other limitations do apply so please contact your tax advisor before making a purchase.

Energy efficient home improvements. A great way to cut energy costs and save up to \$1,500 in income taxes this year is to make energy efficiency improvements to your principal residence. If you install energy-efficient insulation, windows, doors, roofs, heat pumps, hot water heaters or boilers, or advanced main air circulating fans to your home during 2009 or 2010, you may be entitled to a tax credit of 30% of the purchase price, up to a maximum credit of \$1,500. For 2009, the credit is allowed against the AMT. However, unless Congress changes the rules, this will not be the case for 2010. So, if there is any possibility you'll be subject to AMT next year, you may want to make these improvements this year.

RETIREMENT SAVINGS STRATEGIES

Maximizing retirement plan contributions. While contributions to IRAs may be applied retroactively if made before the filing deadline, an individual's elective deferral contribution made as an employee to a qualified plan must be made before the end of the calendar year.

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Maximizing contributions to your retirement plan (or plans) before year end also allows you to reduce your adjusted gross income in direct proportion to those contributions. This, in turn, can give you the benefit of increasing the deductibility of medical and other deductions subject to adjusted gross income thresholds. If you are self-employed and do not have a retirement plan set up, consider implementing one at this time.

Tax-free IRA charitable contributions. If you're age 70½ or older, there are a couple of temporary tax saving opportunities you might want to take advantage of this year. First you can arrange to transfer up to \$100,000 of otherwise taxable IRA money to the public charity of your choice (such as your church or other favorite charity). The distribution is federal income tax-free. You don't get to claim it as an itemized deduction, but the tax-free treatment equates to a 100% write-off, without the need to itemize your deductions. Secondly, although you are normally required to withdraw a minimum amount out of your retirement accounts each year, a temporary tax law change made in late 2008 waives this requirement for 2009. So, if you haven't already received your required distribution during 2009 and you do not need the funds, you can just leave them in your retirement account for another year.

STRATEGIES FOR EMPLOYEES

Take advantage of Flexible Spending Accounts. If your company has a Flexible Spending Account (FSA), before year-end you must specify how much of your 2010 salary to convert into tax-free contributions to the plan. You can then take tax-free withdrawals next year to reimburse yourself for out-of-pocket medical and dental expenses and qualifying child care costs. Watch out, though - FSAs are "use-it-or-lose-it" accounts. You don't want to set aside more than what you'll likely have in qualifying expenses for the year.

If you have set aside funds in your employer's health FSA for 2009, check your balance so that you have sufficient time to incur additional reimbursable expenditures to prevent loss of any unused amount under the use-it-lose-it feature of these plans. Don't forget you can get tax-free reimbursements for aspirin, antacids and other over-the-counter items.

Some employers also allow employees to set aside funds in dependent care FSAs. They allow employees to use pre-tax dollars to pay for dependent care. In particular cases, participating in a dependent care FSA can yield greater tax savings than foregoing participation and claiming a dependent care credit. Additionally, participating in a dependent care FSA can also save on FICA taxes. However, like health FSAs, dependent care FSAs are subject to the use-it-or-lose-it rule. Therefore, now is a good time to review expenditures to date and to project amounts to be set aside for next year.

Adjust your federal income tax withholding. If it looks like you are going to owe income taxes for 2009, consider bumping up the federal income taxes withheld from your paychecks now through the end of the year to avoid underpayment penalties.

STRATEGIES FOR BUSINESS OWNERS

Bonus depreciation and Section 179 expensing. If you have plans to buy office furniture, equipment, or other tangible business property, you might consider doing so before year-end to take advantage of the temporarily increased Section 179 deduction and the temporary

50% bonus depreciation. For 2009, the maximum Section 179 deduction is a whopping \$250,000 (assuming property purchases for the year don't exceed \$800,000). This means an eligible business can often claim first-year write-offs for the entire cost of new and used equipment and software additions. You can also claim first-year bonus depreciation equal to 50% of the cost (reduced by the Section 179 deduction) of most new (not used) equipment and software placed in service during 2009. Unless Congress takes action, the Section 179 deduction will drop to approximately \$134,000 in 2010 and the 50% first-year bonus depreciation break will expire at year-end.

Depreciation deductions for farming businesses. Those taxpayers engaged in a farming business have the opportunity to depreciate most new farming machinery and equipment over a 5-year MACRS recovery period, instead of over the generally applicable 7-year MACRS recovery period, but only if they act before year-end. The faster 5-year writeoff applies only to "qualifying farming property," namely new (not used) property placed in service before January 1, 2010, if it isn't a grain bin, cotton ginning asset, fence or other land improvement.

15-year writeoff for leasehold improvements, restaurant property, and retail improvement property. Under Internal Revenue Code Section 168(e)(3)(E), qualified leasehold improvements, qualified restaurant improvements, and qualified retail improvement property placed in service before January 1, 2010 may be written off over 15 years. Unless Congress acts, the generally applicable writeoff period for these improvements will revert to 39 years for property placed in service after 2009.

Domestic production deduction. The Code Section 199 deduction for qualifying domestic production activities benefits a broad array of businesses, including construction, engineering, architecture, and farming. For 2008 and again for 2009, the deduction generally equals six percent of the lesser of qualified production activities income for the tax year or taxable income that does not take the deduction into account for the tax year. However, the deduction cannot exceed 50 percent of W-2 wages allocable to domestic gross receipts. The deduction applies for both regular and alternative minimum tax liability.

Compensation and bonus deductions. If your business operates a qualified retirement plan, consider maximizing 2009 contributions to qualified retirement plans since the contributions are tax deductible in the year they are made to plan participants.

Year-end bonuses also require care. Paying year-end bonuses in December or January can create a significant compensation-based business deduction. Accrual businesses can take a deduction in 2009 for bonuses not actually paid to employees until 2010 as long as the employee does not own more than 50 percent in value of the business's stock, the bonus is properly accrued on the company's books before the end of 2009, and the bonus is paid within two and one-half months of 2010.

Loss deductions. Business losses sustained during the tax year generally can be deducted. For pass-through entities such as S corporations, LLCs and partnerships, losses will be passed through and deducted on the owners' personal income tax returns subject to at-risk and passive activity limitations. Loss deductions may be taken for:

- bad debts;
- casualty and theft losses;

- capital losses;
- losses on the sale of business assets; and
- net operating losses.

A trade or business has a net operating loss (NOL) when its allowable deductions exceed its gross income for the tax year. Generally, an NOL can be carried back 2 years and carried forward 20 years. As a result of recent legislation, NOLs from small businesses during either 2008 or 2009 may be eligible for a special 5-year carryback. Businesses in specially designated disaster zones may also be entitled to a 5-year carryback.

The first year of the carryover period is the year after the NOL arises; thus, it becomes important to determine the correct year in which gross income is recognized and deductions are taken. The carryback period is especially valuable since the carryback can immediately reduce any taxable income for those prior two years, entitling the business to an immediate cash tax refund upon filing an amended return.

Consider Paying a Dividend in 2009. If you're a shareholder in a closely held C corporation, the current federal income tax rate structure is helpful to your cause. If the company pays you a taxable dividend, the maximum federal rate is only 15%. Better yet, if the stockholder's (you or perhaps a child to whom you've given stock) taxable income is low enough there won't be any tax at all on this income, assuming Kiddie Tax doesn't kick in. However, this may well change in the near future. Now may be a good time to convert some of your C corporation wealth into cash at a very manageable tax cost (and possibly none at all). The maximum federal rate on dividends is scheduled to skyrocket from the current 15% to 39.6% beginning in 2011.

Basis limitations. If you own an interest in a partnership or S corporation you may need to increase your basis in the entity so you can deduct a loss from it for this year.

OTHER STRATEGIES TO REMEMBER

Income timing. This is a strategy revisited every year - it involves accelerating deductible expenses in 2009 and deferring income, if economically feasible, into 2010. By delaying taxable income, you defer taxes. However, this strategy might not always be right for you. If you expect much higher income in 2010 (resulting in a higher tax bracket), it might be advisable to do exactly the opposite and recognize income in 2009, up to your current tax bracket limit.

Standard vs. itemized deductions. If your itemized deductions are not substantially larger than the standard deduction you are eligible for, or you don't always qualify for itemized deductions, you might want to consider timing payments of charitable contributions and other itemized deductions so that you maximize your itemized deductions in one year and minimize in the next. You will be able to take an increased itemized deduction in one year and then take advantage of the standard deduction in the next, thereby increasing the average amount of deduction you are able to take.

Investment portfolios. This is the time of the year to review your portfolio. If you decide to sell some of your investments that may result in a loss, remember that you will only deduct a capital loss of \$3,000 unless you have capital gains to offset your loss.

For 2009, the tax rate on long-term capital gains is 0% when they fall within the 10% or 15% regular income tax rate brackets. This will be the case to the extent your taxable income (including long-term capital gains) does not exceed \$67,900 if you're married and file jointly (\$33,950 if you're single).

While your income may be too high to benefit from the 0% rate, you may have adult children, grandchildren, or other loved ones who can. If so, consider giving them some appreciated stock that you've held for more than a year, which they can then sell and pay 0% tax on the resulting long-term gains. However, if you give securities to someone who is under age 24, the Kiddie Tax rules could cause the gains to be taxed at the parent's higher rates. You also need to remember that the annual gift tax exclusion per person is \$13,000 for 2009.

Alternative Minimum Tax. Remember to watch out for the AMT in all of your planning because what may be a great move for regular tax purposes might create or increase an AMT problem.

CONTACT US

For more information on these or any other tax provisions, please contact your tax advisor at (573) 442-6171 or (573) 635-6196.

We wish you and yours a happy and safe holiday season. And, may 2010 be a brighter year for everyone.

Sincerely,



Williams-Keepers LLC