



DYER & ASSOCIATES, P.C.

Certified Public Accountants

10415 Armory Avenue

Kensington, MD 20895

(301) 654-6200 FAX: (301) 692-1990

Client Information Bulletin

May 2008

What's to Like About Like-kind Exchanges?

Avoiding tax problems in a down real estate market

The real estate market is in the midst of an extended slump throughout most of the country. That makes it more difficult for investors to buy or sell buildings and other property. To compound matters, a sale could result in significant tax consequences for real estate property that has appreciated in value since it was acquired.

Fortunately, there is a way you may be able to avoid any dire tax problems. Assuming a suitable replacement property can be identified, you can arrange an exchange of properties. As long as the properties are "like-kind," you generally do not have to pay any current tax on the exchange (but see page 2).

How it works: The rules for like-kind exchanges apply to investment or commercial property. (They cannot be used for personal residences.) This refers to the nature, character or class of the property—not its grade or quality. For example, a swap of an office building for an apartment building of the same value can qualify as a like-kind exchange. As a result, neither party has to report taxable income.

Other types of property may qualify under the rules, but the majority of these transactions involve real estate. However, in the real world, trading real estate properties is usually not so simple.

Case in point: Suppose you want to acquire real estate, but the owner is not interested in any of the properties that you own. The tax law allows you to take the "like-kind exchange" concept one step further. The exchange can involve multiple parties if the two owners cannot agree on the properties to be swapped.

The IRS has approved the use of a qualified intermediary to facilitate the deal, as long as the intermediary is not connected to one of the other parties. Be aware that time restrictions are involved in a multiple-party swap. In general, (1) the property you are receiving must be identified within 45 days of the original transfer and (2) you must take title within 180 days (or your tax return due date plus any extensions, if that is sooner).

Example: Say that Mr. Able wants to acquire property owned by Ms. Baker. However, Able does not own any property that Baker desires in return. After discussing a number of locations, the two of them strike a deal with Mr. Clay. Baker agrees to take Clay's property, Clay acquires title to a property owned by Able and Able obtains the property he wanted all along.

Assuming like-kind properties are involved, the entire transaction may be tax-free if the deal is completed within the necessary deadlines.

Inside

Six Steps to the Name Game

New Joint Crackdown on Employment Taxes

Taking Roll Call at Work

Finding Nuggets in the Economic Stimulus Law

Facts and Figures

There is, however, one catch: If you receive any money or property as part of the deal, the additional amount—called “boot” in tax lingo—is subject to income tax. On the other hand, no loss is recognized by the taxpayer who provides the boot. The assumption of a greater mortgage is also treated as taxable boot for this purpose.

Finally, be aware that the IRS recently announced that it is on its guard for like-kind exchanges it considers to be abusive in nature. This is a complex area of the tax law, so be sure to consult with a professional tax adviser before you strike a deal.

Six Steps to the Name Game

How to name a start-up company

What’s in a name? Plenty, especially if we are talking about the name of a fledgling company. As the marketplace in many industries becomes more crowded, it is important to choose a name that is readily identifiable and stands out from the pack. The proliferation of Internet-based companies only adds to the clutter.

Here are six steps to help you find a name that fits the bill.

1. You must understand the main characteristics of a good company name. Make this a top priority. The name should:

- ◆ Be easy to spell;
- ◆ Require no explanation;
- ◆ Describe your business;
- ◆ Indicate a benefit; and
- ◆ Distinguish you from the competition.

Optimally, the name you ultimately choose will have some, if not all, of these characteristics. (All is clearly preferable.)

2. Devote some time to the process. Do not blindly embrace the first or second name you come up with. Frequently, it takes considerable effort on your behalf. It is generally recommended that you establish a team that will take responsibility for finding the best name for the company.

3. Use the tools at your disposal. You do not have to rely just on brain power. Consult the dictionary and a thesaurus. Searching online for words and descriptions can also be beneficial.

4. Bring your team together for a brainstorming session. Usually, you will not decide on a name right away, so you might try to find the words one at a time. (The odds are

the name will be at least two words.) Break down the words by the following categories:

- ◆ Descriptions of your product;
- ◆ Differences between your product and the competition’s product; and
- ◆ References to the benefits of using your product.

To keep things manageable, spend time on each category before you start joining words together. Resist the temptation to do it all at once.

5. Once you have found a name you like, sleep on it. If it still stands up to scrutiny over the next few weeks, it could be a winner. In other cases, you might

discard the name for a variety of reasons—perhaps it does not meet enough of the requisite characteristics. Then go back to the drawing board. But don’t give up hope and don’t take the easy way out.

6. Test it out. If you invest enough time and energy, you will know a good name when you hear it. But you still have to run the name by the most important audience: your customers. Solicit responses through phone surveys, e-mails and the like. In any event, obtain feedback from outside the organization.

Of course, other factors may come into play. For instance, it may be critical for your business to obtain the domain name with a “dot-com” suffix. If this is the be-all and end-all for your company, you might substitute another choice if the domain name is not available.

Final words: *In any event, you must conduct a search of the name for both legal and practical matters. Your business advisers can provide assistance.*



New Joint Crackdown on Employment Taxes

IRS and states sign information-sharing agreements

The IRS figures the more, the merrier. That is why it has announced it is teaming up with more than half of the individual states to resolve employment tax issues and corral offenders. This collaborative effort is intended to provide a centralized and uniform methodology for improving employer compliance in this area.

Details: The new initiative is the by-product of the teamwork between various state agencies, the U.S. Department of Labor, the National Association of State Workforce Agencies, the Federation of Tax Administrators and the IRS.

As of this writing, 29 states are participating in information-sharing agreements. They are, in alphabetical order: Arizona, Arkansas, California, Colorado, Connecticut, Hawaii, Idaho, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington

and Wisconsin. More are expected to follow.

The IRS and the states are hoping that their joint efforts will reduce fraudulent filings, uncover tax avoidance schemes and ensure proper worker classifications. In particular, it will try to clarify the features distinguishing independent contractors from employees. This classification of workers is often contested by both sides.

What can employers expect to occur? The IRS and the participating states hope to accomplish the following:

- ◆ An exchange of employment tax information for civil cases involving attempts to evade or inappropriately reduce employment tax liabilities;
- ◆ An exchange of information using either actual employment tax reports or a template compatible with federal and state information that the oversight team has developed;
- ◆ Participation in coordinated enforcement efforts;
- ◆ Sharing of independently conducted examination results or side-by-side cooperation on an examination;
- ◆ A concerted attempt to be consistent with their examination results, reducing the chances that states might classify a worker as an employee while the IRS classifies the worker as an independent contractor or vice versa;
- ◆ Sharing employment tax training opportunities and materials; and
- ◆ Sharing outreach opportunities to the business community whenever that is practical.

The new initiative meets the necessary disclosure requirements for ensuring the privacy of taxpayer information. In addition, all participating states must demonstrate that they have systems in place to ensure the safety of any IRS data they will receive as a part of the information-sharing agreements.

More to come: The joint crackdown is also expected to result in legislative proposals to promote increased fairness and confidence in the tax system. Stay tuned for further developments relating to employment taxes.



Taking Roll Call At Work

Are your workers constantly "out sick" or arriving late? These issues can drive business managers batty. Even worse, employee absenteeism and tardiness may have a significant impact on productivity.

Here are a few simple suggestions for turning things around:

- ◆ Educate employees about your policy. Spell it out in the company manual. Then go over the policy in face-to-face meetings.
- ◆ Keep track of all occurrences. Maintain a special ledger for this purpose.
- ◆ Meet with constant offenders. Discuss the improvement that is expected of them.
- ◆ Follow up. Hold another session with the employee. If the problem persists, contact your human resources department.
- ◆ Take corrective action when it is warranted. Document all actions carefully.

You may find that these steps will lead to improved performance. At the very least, it shows you are focusing on the issue.

Finding Nuggets in the Economic Stimulus Law

New legislation includes business tax breaks

The new Economic Stimulus Act of 2008—signed by the President on February 13—is designed to spur spending. Of course, the main focus of the new law is the one-time rebates for individuals. But there is more to this new legislation than first meets the eye.

Let's take a closer look at the main tax components of the new economic package.

Tax rebates: Most single filers will receive a one-time rebate of \$600. This rebate amount is doubled to \$1,200 for joint filers. If you have children under age 17, you may qualify for a rebate of \$300 per child. There is no set limit on the number of rebates for children.

However, the rebates for both single and joint filers gradually phase out above certain thresholds. The phase-out begins at an adjusted gross income (AGI) of \$75,000 for single filers and \$150,000 for joint filers.



Give Us A Call!

Do you have any questions or comments about this newsletter or your individual situation? Please do not hesitate to contact our office. We would be glad to serve you in any way we can.



In addition, other individuals who do not pay income tax but have at least \$3,000 in taxable income, generally are entitled to a \$300 rebate. These rebates are doubled to \$600 for qualified joint filers. The eligible beneficiaries may include Social Security recipients and disabled veterans (or surviving spouses of disabled veterans).

Section 179 deductions: In a temporary measure, the new law increases the Section 179 “expensing deduction” for assets placed in service in 2008. The maximum inflation-indexed amount of \$128,000 jumps all the way up to \$250,000 this year.

Furthermore, the dollar threshold for reducing the maximum Section 179 deduction for 2008 increases from \$510,000 to \$800,000. (The deduction is reduced dollar-for-dollar for amounts above the threshold.)

Bonus depreciation deductions: A qualified business may be able to claim a 50% bonus depreciation deduction for assets placed in service in 2008. This bonus deduction comes right off the top. The remaining balance is still available for regular depreciation deductions under the Modified Accelerated Cost Recovery System (MACRS).

Remember that this only a brief overview of the new tax law. Obtain more detailed information pertaining to your situation.

Facts and Figures

Timely points of particular interest

➔ **Investment Advisory Fees**—In a significant new case, the U.S. Supreme Court has ruled that the usual 2%-of-AGI (adjusted-gross-income) deduction floor for miscellaneous expenses applies to most investment advisory fees paid by a trust or estate. **Facts:** The trustee of an affluent family's trust argued that the fees were fully deductible under a tax law exception. But the nation's high court disagreed because the fees are miscellaneous expenses that are commonly incurred by individuals.

➔ **Doubling Up**—Certain workers may be entitled to time off under the Family and Medical Leave Act (FMLA). However, that does not necessarily mean they can “double up” by working another job at the same time. One suggestion for employers: Impose a “no moonlighting” policy in your company manual. Be consistent about applying the ban. This may prevent employees from taking unfair advantage of the law. **Note:** Recent FMLA changes will be reflected in a future issue.

This newsletter is published for our clients, friends and professional associates. It is designed to provide accurate and authoritative information with respect to the subject matter covered. It is distributed with the understanding that the publisher is not engaged in rendering accounting, legal or other professional services. Before any action is taken based upon this information, it is essential that competent, individual, professional advice be obtained. In accordance with IRS Circular 230 any tax advice contained in the body of this material was not intended or written to be used, and cannot be used, by the recipient for the purpose of 1) avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions, or 2) promoting, marketing or recommending to another party any transaction or matter addressed herein. © 2008