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Client Information Bulletin

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Six Estate-planning Steps for This Year

Giving your estate plan a check-up

The scheduled one-year repeal of the federal estate tax in 2010, plus the related changes in the federal estate- and gift-tax system, have certainly clouded estate-planning matters this year. It is expected that Congress will eventually take some legislative action, but that does not mean you should stand by idly. It is important to have your estate plan reviewed to ensure it still meets your objectives and that it is positioned to accommodate future developments.

Here are six steps you may take to shore up your estate plan under the current conditions.

1. **Establish a power of attorney.** This legal document appoints another person to act on your behalf in financial and legal matters and may remain in effect in the event you become incapacitated. Without one, a court may have to appoint a guardian to oversee your financial affairs. Normally, you will designate a close family member or friend, or a qualified professional such as an attorney or accountant. The document may be supplemented by a health-care proxy authorizing someone to make medical decisions on your behalf.

2. **Review beneficiary designations.** Certain assets do not normally pass through a will or living trust. If you have life insurance, make sure you have properly completed the beneficiary designation form designating the beneficiaries of the proceeds. Beneficiary designation forms for your retirement accounts should also be filled out and coordinated with the rest of your estate plan. Make sure the forms include primary and alternate beneficiaries.

3. **Weigh a Roth IRA conversion.** Although you must pay tax when you convert a traditional IRA to a Roth, future qualified distributions are completely tax-free. Also, unlike a traditional IRA, you are not required to take annual minimum distributions after reaching age 70½. Thus, amounts in the Roth IRA can continue to grow without any tax erosion. Previously, you could not convert in a year in which your modified adjusted gross income (MAGI) exceeded $100,000, but this limit has been eliminated, beginning in 2010. **Added incentive**: For a conversion in 2010, the tax may be paid evenly over 2011 and 2012.

4. **Consider state tax implications.** If you are thinking of moving out of state, find out the state tax laws in the new jurisdiction. About half the states have a separate estate tax that applies if you live there or own real estate there. These taxes apply whether or not a federal estate tax exists. **Note**: All states will honor a legally valid will, but specific terms drafted for one state might create

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problems in another. Have your will reviewed by an attorney.

5. **Use trusts when appropriate.** A trust can be an important estate-planning tool beyond any available tax savings. For instance, a trust may be used to hold assets for young children, avoid spending sprees by family members or protect assets from a former spouse or creditors. Coordinate trusts with other aspects of your estate plan.

6. **Tie up other loose ends.** Your estate plan may help facilitate a variety of other measures such as ensuring tuition payments for your grandchildren, developing a succession plan for the family business, keeping a vacation home in the family or giving gifts to charity. Regardless of how the estate-tax issues are resolved, you can incorporate these objectives into your estate plan.

Finally, arrange a meeting with your tax adviser to discuss the particulars of your estate plan. Depending on your situation, a formula clause in your will may need to be revised or other estate-planning documents may need to be changed. We will also keep you posted on any significant developments affecting the estate-tax law.

How to Raise Cash for a Business

Potential sources for business financing

It "takes money to make money," but some of the conventional sources of cash have dried up for small-business owners. But that does not mean you should give up. If you lack the necessary funds to start a business or you need more money to expand your current operation, there are still several possible ways to raise the cash. For example:

1. **SBA loans**: You may be able to obtain a bank loan that is partially guaranteed by the Small Business Administration (SBA). For instance, the SBA can direct you to a bank or other financial institution in your area that participates in one of its special programs. The bank supplies the application for an SBA loan guarantee.

2. **Accounts receivable**: One of the most sensible ways to raise cash is to look within your own company. Specifically, you may be able to free up funds with better cash management. Start by trying to speed up payment from delinquent accounts. By establishing a written credit and collection policy with the help of your business advisers, you should be able to improve your cash flow.

3. **Accounts payable**: Similarly, you should take advantage of any opportunities you have to hold onto your money. For example, you do not always have to pay bills as soon as you receive them. In effect, this technique is a source of free financing.

4. **Excess inventory**: An additional way to lower your costs is to reduce your inventory whenever it is appropriate. You may be able to exchange products or services through a "barter club" or contribute excess inventory to a charity. **Note**: A C corporation may qualify for an enhanced deduction on certain inventory contributions.

5. **Private investors**: Although financing from private investors is not as prevalent as it was in the past, this still may be a viable alternative for your company. These investors are often known as "angels" because they can rescue your company from dire straits. However, private investors who have a large stake in the bottom line can erode your control, so be careful.

6. **Financial allies**: Instead of seeking assistance from strangers, you may want to turn to suppliers or vendors who have an indirect interest in your business. It is likely that they will understand the nature of your business and act in a reasonable fashion. **Caution**: Depending on the circumstances, this may put you in a vulnerable position.

7. **Bank loans**: Do not automatically assume that you will not qualify for a traditional bank loan. The key is to prepare a loan proposal in a straightforward and businesslike manner. Provide a written business plan, cash projections and other records for the bank officer's review.

Last, but not least, rely on guidance from trusted business advisers. They can help steer you in the right direction.

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.

Sweep Away "Nanny Tax" Concerns

How to avoid employment tax penalties

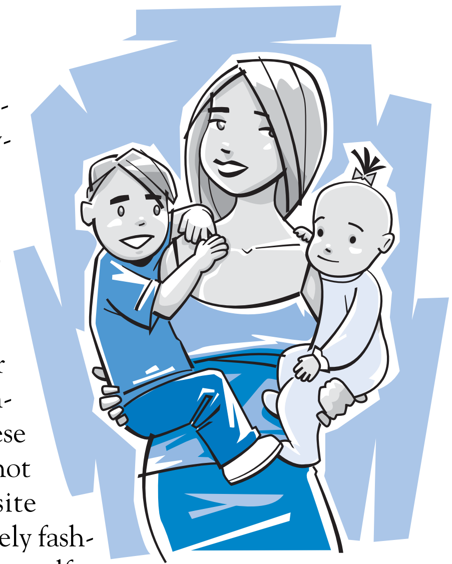
If you employ a household worker, such as someone to watch young children, you may be liable for the so-called "nanny tax." However, you can sidestep any dire tax consequences if you pay close attention to the rules.

Background: Under current law, you must pay employment taxes if the wages paid to certain household employees exceed a specified annual threshold. The IRS has announced that the annual threshold for 2010 is $1,700 (the same as it was in 2009).

For many years, nanny tax obligations were often ignored, but several high-profile cases have increased IRS scrutiny. Failure to observe the rules could result in tax penalties. There are three major areas to be concerned about.

1 **Social Security tax**: The 6.2% Old Age, Survivors, and Disability Insurance portion of Social Security tax is withheld from employees and matched by the employer up to the amount of the annual wage base. The wage base for 2010 is $106,800 (the same as 2009). In addition, you must withhold and match the 1.45% Medicare portion of the tax on the full amount of wages.

2 **Federal unemployment taxes**: You must pay a 6.2% tax on the first $7,000 in wages, but this amount is reduced by a 5.4% credit. Thus, the net tax is only 0.8% if you paid all your required state unemployment and disability taxes.



3 **State unemployment and disability taxes**: You are responsible for both your share and your employee's share of these state taxes. If you do not withhold the requisite amount of tax in a timely fashion, you must pay it yourself.

Key point: The nanny tax actually applies to a wide variety of household employees. This includes workers who perform jobs in and around your home, such as nannies, babysitters, private nurses and other caretakers, cleaning people, yard workers and similar domestic workers. However, a worker is an "employee" only if you control the conditions. For instance, if you pay an agency directly, the agency is treated as the employer of the worker and pays the employment taxes.

Alternatively, if the worker controls how and when the work is performed and works for several households, he or she may be treated as a self-employed individual. This typically occurs when the worker offers services to the general public and provides his or her own tools and supplies. Self-employed individuals are responsible for their own employment taxes.

In addition, the law contains several other exceptions. Significantly, you are not responsible for the nanny tax for amounts paid to

♦ your spouse

♦ your child if he or she is younger than 21 years

♦ your parent or in-law (unless a certain special exception applies)

♦ an employee who is younger than 18 years at any time during the year, except if providing household services is the employee's principal occupation

Final words: *If you have any questions concerning your responsibilities under the nanny tax, do not hesitate to contact your professional tax adviser.*

IRS Installments: Deal or No Deal?

The IRS recently issued final regulations covering procedures for arranging installment agreements. These new regulations generally take a pro-taxpayer approach.

In the preamble to the regulations, the IRS also acknowledged that many taxpayers have faced difficult financial situations as a result of the recession. It reiterates that you may request a revision of an agreement if you are experiencing economic hardship.

Should you work out a deal with the IRS? Obtain professional assistance to answer this question. More details are available upon request.

Protecting Your Business from Embezzlement

Be both proactive and reactive

It seems that every other day the newspapers feature a story where a longtime employee has embezzled money from his or her employer. You may sadly shake your head and blithely continue to go about your business. After all, this cannot happen to you ... can it?

Do not be naive. Recent studies show that employee embezzlement accounts for a majority of ordinary business losses suffered by employers. Some estimates indicate that more than $400 billion is stolen annually from U.S. employers.

How can you protect your company? A good place to start is with an examination of your bookkeeping procedures. Be sure to completely separate the accounts payable from the accounts receivable. In addition, have at least two employees handle the payroll—one to write the checks and the other to distribute them. If only one person is assigned both of these critical jobs, it may create an irresistible temptation to embezzle.

Furthermore, the owner of a small business should approve all checks over a certain amount. Payments should be made with an original invoice, not a copy. Have all bank statements reconciled and audits performed periodically.

Even with these safeguards in place, there is no guarantee that you will not be victimized. What should you do if you find out an employee has embezzled from the company? Here are a few suggestions:

♦ Consult with an attorney to find out the civil and criminal legal remedies that may be available to you. For instance, you might sue the employee to recover the embezzled money.

♦ Contact the authorities. Frequently, owners feel partly to blame for allowing the theft to take place, but hiding it does no good. In most cases, the employee will simply move on to the next victim, and you will be left holding the bag.

♦ Try to recover the funds. Reporting the crime does not mean you will be reimbursed in full. Before paying claims, insurance companies want solid proof of embezzlement, which is not always easy to provide. For example, when inventory is stolen, it is hard to show that the loss is actually theft and not an inventory mistake.

♦ Notify the IRS about the embezzlement. This becomes an added incentive for the employee to make restitution, because embezzled funds are considered to be taxable income. If you report the crime to the IRS, the employee will owe tax on the total amount stolen. This amount will be reduced to the extent that restitution is made by the employee. If your business involves sensitive matters, or if security is a critical issue, you might obtain a bond to cover your employees.

***Reminder**: Do not ignore the threat of employee embezzlement. It is best to thwart potential problems before they occur. Keep your eyes wide open at all times.*

Facts and Figures

Timely points of particular interest

➡**Gender Identity**—The Tax Court has just approved an unusual medical expense deduction. In a new case, it allowed a Boston-area man who became a woman to deduct the costs of hormone therapies and sex change surgeries that were necessary to treat "gender identity disorder," a specific disease. The decision overturns IRS policy denying medical deductions for such operations because they are cosmetic.

➡**The Survey Says**—Do you want to find out if your employees are satisfied? Take a survey. Employee satisfaction surveys can provide an employer with measurements of attitudes, opinions and general satisfaction with the work environment. Use employee satisfaction surveys to help make decisions concerning benefits, work needs and other related issues.