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Client Information Bulletin

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Tax Angles to Capital Gains and Losses

New law extends favorable capital gain rules

The tax rules for offsetting capital gains and losses can be confusing, even for experienced investors. **Saving grace:** The new 2010 Tax Relief Act extends favorable tax treatment for long-term capital gains. This latest extension lasts through 2012.

For simplicity, the following discussion is limited to capital gains and losses arising from sales of securities. (Additional special rules may apply to other capital assets such as sales of collectibles and property subject to depreciation recapture.)

Background: The rules differ for long-term gains and losses and short-term gains and losses. A gain or loss is “long-term” if you have held the security for more than one year before the sale occurs. For example, if you bought stock on July 1, 2010, and sell it at a profit on June 30, 2011, the gain is treated as a short-term gain. However, holding the stock for just two more days—until July 2, 2011—qualifies for favorable long-term capital gain.

To net your gains and losses, first place your long-term gains and long-term losses in one basket. This gives you either a net long-term gain or a net long-term loss. Next, place your short-term gains and short-term losses in another basket. This results in either a net short-term gain or a

net short-term loss. Finally, combine the net long-term gain or loss with the net short-term gain or loss to arrive at an overall net capital gain or loss.

If your capital gains for the year exceed your capital losses, any net long-term gain is taxed at a maximum tax rate of 15%. For a taxpayer in either of the two lowest regular tax brackets (the 10% or 15% tax brackets), the maximum tax rate on long-term capital gain is 0%. These favorable tax rates, in addition to a comparable tax break for qualified dividends, have been extended through 2012. Without the new legislation, the tax rate on long-term capital gain would have increased to 20% (10% for low-income individuals).

Conversely, if your capital losses exceed gains, the excess net loss can be used to offset up to \$3,000 of ordinary income, such as salary. Any remaining excess is carried over to future years.

Once you understand these rules, analyze your current tax situation, and act accordingly. For example:

- ◆ If you are currently showing a net loss, you can realize capital gains before the end of the year. The capital gains are effectively tax-free up to the amount of your losses.
- ◆ If you are currently showing a net gain, you can realize capital losses

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before the end of the year. The losses effectively absorb the tax you would have had to pay on the gains.

◆ If warranted, you may realize an excess loss that can offset up to \$3,000 of ordinary income.

Caution: If you sell securities and buy back the same securities within 30 days, you cannot deduct the loss on your

tax return. This is called the “wash sale” rule. To avoid this harsh tax result, wait at least 31 days before you re-acquire the stock. Alternatively, if you believe the stock will rebound, you can “double up” your shares and sell the original shares more than 30 days later. This strategy enables you to lock in the current price without forfeiting the tax loss.

Q's and A's on Section 529 Plans

How to help pay for college education

Section 529 plans may provide significant benefits to cash-strapped parents who intend to help pay for their children's college education. Here is a quick Q-and-A session on this intriguing option.

Q. What exactly is a Section 529 plan?

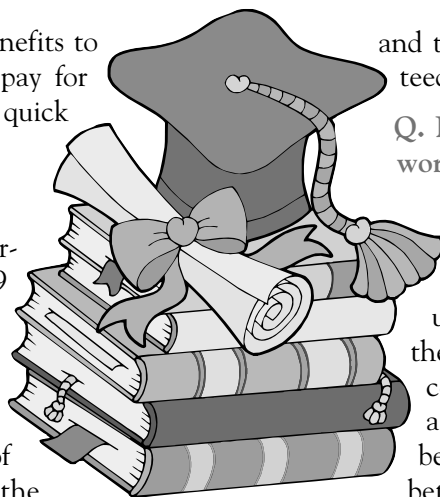
A. It is a type of educational savings plan generally operated by individual states. Section 529 plans are designed to encourage families to set aside funds for the future education of the younger generation. If certain requirements are met, there is no tax due on the contributions to the plans, no tax due on the accumulation of earnings and no tax due on distributions when the funds are paid out for qualified distributions.

There are two main types of Section 529 plans: the prepaid tuition plan and the college savings plan.

Q. How does a prepaid tuition plan work?

A. Essentially, the plan is guaranteed to keep pace with the rising cost of college tuition. For instance, let's say it currently costs \$10,000 annually to send a child to a state university. You pay \$10,000 now to buy shares for a youngster. When the child is ready to go to school, your shares can pay for an entire year of tuition, no matter what it costs at that point.

This type of plan is often attractive to parents because it offers peace of mind. There's no risk of loss of principal,



and the investment is usually guaranteed by the state.

Q. How does a college savings plan work?

A. As opposed to a prepaid tuition plan, there is no guaranteed lock on future tuition costs under a college savings plan. In fact, the savings may not be enough to cover all of the costs. But there's a bigger potential upside as well because it is possible to generate a better return with this type of plan.

(Of course, there are no guarantees concerning the returns on the investments.)

Usually, the plan will offer an asset allocation strategy geared to the current age of the child or the year he or she will enter school. For example, the plan may provide more aggressive investments in the early years and switch over to more conservative investments as college approaches. Most college savings plans also offer a wide variety of risk-based asset allocation portfolios. The funds are managed by professionals.

Q. What are the restrictions on contributions?

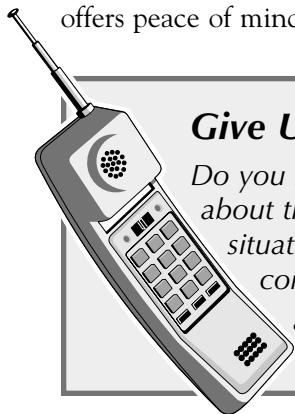
A. Anyone can contribute to a Section 529 plan on behalf of a named beneficiary. Each state is responsible for setting its own limits on the amount of contributions allowed to a college savings plan. Check the limits in the applicable state.

Note: In the event a child decides to not attend college or attends school in another state, you may be able to transfer funds to another plan or “roll over” funds for the benefit of a successor beneficiary (e.g., a younger child).

Finally, be aware that this type of plan is not for everyone. Investigate the options carefully to determine if a Section 529 plan suits your family's needs.

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.



Spotlight Shines on New Facebook Case

Establishing rules for social media sites

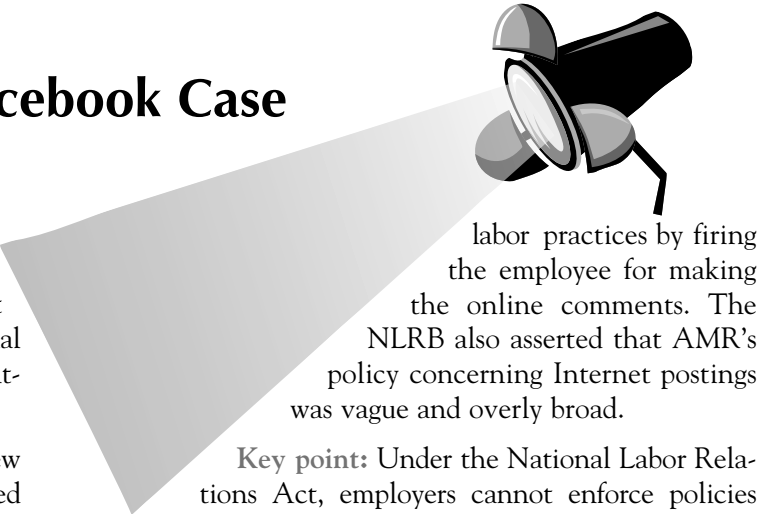
Nominated for several Academy Awards, the movie *The Social Network* was one of the cinema hits of 2010. In real life, millions of users turn to Facebook at all times of the day about all sorts of matters, both personal and business. But how far can employees go in commenting about work-related matters?

The legal boundaries are slowly being drawn. In a new case, the National Labor Relations Board (NLRB) jumped to the defense of an employee who was allegedly fired for posting derogatory comments about her supervisor online. The case was recently settled out of court.

Facts of the case: The NLRB accused American Medical Response (AMR) of Connecticut of illegally firing one of its employees. In a Facebook post, the employee claimed that her supervisor had prevented her from having a union representative present while she responded to customer complaints. Her coworkers made supportive comments about her post.

However, the online remarks included certain vulgarities, as well as this comment, “Looks like I’m getting some time off. Love how the company allows a 17 to be a supervisor.” A 17 is the code that the company uses for a psychiatric patient.

After the employee was fired, the NLRB issued a complaint against AMR. It alleged that the firm engaged in unfair



labor practices by firing the employee for making the online comments. The NLRB also asserted that AMR’s policy concerning Internet postings was vague and overly broad.

Key point: Under the National Labor Relations Act, employers cannot enforce policies that impede an employee’s right to discuss wages, working conditions or unionization. In this case, the NLRB argued that criticism of a supervisor, as part of a discussion with coworkers, is protected activity under the Act—even if the communication takes place on a social media Web site such as Facebook.


For its part, AMR maintained the employee was not fired because of the online comments. Instead, it claimed that termination resulted from complaints about the employee made by patients and hospital staff. The employee had requested that a union representative be present during an investigation of those complaints by AMR, but the request was denied. It was at this point that the employee was fired. AMR characterized the firing as being due to her “rude and unprofessional conduct.”

The NLRB also objected to the broad terms in AMR’s handbook concerning online postings and blogs by employees. In particular, the agency took notice of one section of the handbook that said, “Employees are prohibited from making disparaging, discriminatory or defamatory comments when discussing the Company or the employee’s superior, coworkers and/or competitors.” A spokesperson for the NLRB cited this section as being vague and conflicting with fundamental labor laws that allow employees to criticize supervisors and discuss employment matters with coworkers.

Final outcome: According to media reports, AMR has agreed to change the policy that prohibits workers from posting disparaging comments about supervisors. It will also amend its rules concerning company depictions over the Internet.

The relationship between media sites such as Facebook and the workplace will continue to evolve. Both employers and employees should take notice of new developments in this area. Your professional advisers can help you adapt your company policies—including making revisions in handbooks and manuals—to meet the changing needs.

The Wrap-up for Wrap Fees



Typically, “wrap fees” in an IRA cover investment advisory services, broker commissions and similar expenses. Unlike broker commissions, wrap fees are based on the total assets under management, not trading activities.

As a result, a new private letter ruling says that wrap fees do not count as traditional or Roth IRA contribution amounts if they are paid directly by the owner. Therefore, you can contribute up to the annual IRA contribution limit (\$5,000 for 2011) without any erosion. (The IRA contribution limit for 2011 is increased to \$6,000 if you are age 50 or older.)

Finally, wrap fees are deductible as miscellaneous expenses, subject to the usual floor for these expenses. Your miscellaneous expenses for the year are deductible to the extent the total exceeds 2% of your adjusted gross income (AGI).



12 Common E-mail Mistakes to Correct

Avoid potential problems in the workplace

Are you making the same mistakes that have plagued business people for years? Here are an even dozen common e-mail errors and how to avoid them.

1. You hit “send” before you mean to. Enter the recipient’s e-mail address *after* you are ready to send it out. This reduces the risk of sending an important e-mail to the wrong person, e-mailing an incomplete message or sending an inappropriate one.

2. You forget to attach the attachment. Upload the file before you compose the e-mail message. This eliminates the need to send yet another e-mail with an apology. Similarly, make sure you send the correct attachment before you e-mail.

3. You forward unnecessary e-mails. Whether you forward a joke or a heartfelt request for a charity, the workplace is usually not the proper forum for this. Restrict your personal e-mails to your personal time.

4. You don’t review messages before replying to an old one. New developments may change your approach. This can lead to duplication, wasted time and miscommunications that can be hard to eradicate.

5. You omit recipients by not replying to all. Unless there are extenuating circumstances, do not arbitrarily ignore the recipients of the initial message. And it can be even worse to hit “reply to all” unintentionally. Depending on the message, this can irreparably damage relationships.

6. You “e-sign” every e-mail. This is not needed for multiple communications or when you are e-mailing a coworker sitting ten feet away. If your program automatically generates an e-signature for each new message, revise it when appropriate.

7. You compose the message too quickly. Even if you are in a rush, try to write each e-mail carefully. Review communications before you send them off into cyberspace.

8. You give little thought to the subject line. E-mail inboxes become jammed, so posting an interesting subject line can put you on the top of the list. Otherwise, your message might get lost in the clutter.

9. You e-mail when you are angry. Recall buttons are far from perfect. Sending an emotional e-mail is usually not a good idea. **Better alternative:** Save a draft of a sensitive e-mail, and then sleep on it.

10. You assume too much knowledge. Even if you were talking to someone five minutes ago, remind them about the issue in the e-mail. Even the brightest people can forget the details.

11. You ignore basic greetings. A simple “hi” or “hello” to the named person at the start can do the trick. Be brief, yet courteous.

12. You violate company policy. Many companies have installed spam filters that monitor language. Do not say anything you would not say out loud.

Facts and Figures

Timely points of particular interest

New Medical Deduction—The IRS now says that breast pumps and supplies that assist lactation can qualify as “medical care” for deduction purposes. As with obstetric care, these devices affect the structure or function of the body of the lactating woman. Therefore, if a taxpayer exceeds the usual 7.5%-of-adjusted-gross-income threshold, expenses paid for breast pumps and supplies that assist lactation are deductible.

Expert Advice—Do you have a mentor who has helped you prosper in business dealings? You do not have to be limited to just one. The world has changed a lot in recent years, and you may want to lean on several people with specialized knowledge. This does not mean you should ignore a past mentor, but it can help to build a network of business experts you can count on for practical and useful advice.

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