

We wish everyone a Happy and Prosperous New Year!

FEDERAL TAX LAW CHANGES

Some Financial Relief for Seniors

A recent tax law change promises to help give older Americans some much needed financial flexibility as they struggle to manage their finances during this difficult economic time. A key provision in the recently passed Worker, Retiree and Employer Recovery Act of 2008 is designed to help alleviate the financial burden facing seniors who have seen their retirement savings shrink dramatically. The new provision provides relief to senior citizens by allowing them to continue to keep money in retirement accounts that they are typically required by law to withdraw once they reach age 70 1/2.

Here's a brief summary of this new provision:

The tax laws generally require individuals with retirement accounts to make required withdrawals based on the size of their account and their age every year after age 70 1/2. This rule is intended to prevent wealthy individuals from using retirement accounts as a tax shelter. Any individual who fails to take a required minimum distribution (RMD) is heavily penalized by the IRS, which taxes the amount not withdrawn at 50%.

The new law suspends the required minimum distribution from retirement accounts in 2009. This waiver, which is available to everyone regardless of their total retirement account balances, applies to all defined-contribution plans, including 401(k), 403(b), 457(b), and IRA accounts. Suspending the mandatory withdrawal allows retirees to keep the money in their account if they choose, and possibly recover some of their losses.

Please keep in mind that this is only a summary of this new provision. As always, we look forward to discussing these matters with you. Please feel free to contact us with any specific questions you have at: partners@sharkcpa.com or (508) 584-2120.

Jumpstarting the 2009 Tax Year

Happy New Year! As 2009 gets underway, and you prepare for the 2008 filing season, it's important not to overlook a number of valuable tax planning opportunities that apply right away to the 2009 tax year. Here are 10 considerations for tax planning as 2009 starts.

2009 is shaping up to be a tumultuous and pivotal year for taxes. If you have any questions on the tax strategies in this article, please contact our office. Remember, that as 2009 unfolds, other tax strategies may come into play depending on the size and scope of the expected economic stimulus plan under President Barack Obama. We will follow these developments and stand ready to advise our clients appropriately.

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1. Retirement account strategies

2008 has been a year in which many retirement savings accounts have been hit hard by the current stock market meltdown. Whether you are retired, about to retire, or many years away from those golden years, now is not the time to either panic or ignore taking action about the current economic collapse. Sticking to a plan balancing tax-deferred and taxable accounts with proper asset allocations based on your current position makes good sense, now more than ever. Recessions always end and not planning now for our cyclical markets would be a mistake. This office can recommend many strategies, depending upon your current circumstances.

Taxpayers can reduce their taxable income by contributing to a 401(k) or other salary reduction plan, or contributing to a traditional IRA. If you have a traditional IRA and are interested in converting to a Roth IRA, but are prohibited currently from contributing, get ready for 2010, when the income restrictions on converting to a Roth IRA disappear.

For seniors whose 401(k)s, IRAs and other qualified retirement savings have been hard hit by the stock market collapse, some relief is available in 2009. The new *Worker, Retiree, and Employee Recovery Act of 2008* allows retirees to suspend required minimum distributions from these arrangements for 2009 so that they hopefully earn back some of their losses by keeping that money in their accounts.

2. Invest in education

The tax law encourages individuals to save for education costs through qualified tuition programs (QTP) (also called 529 plans), Coverdell Education Savings Accounts (ESAs) as well as providing for credits and deductions. The escalating price tag of education means it is never too early to start saving and understanding all your options is vital.

Education does not stop, however, once you pass college age; it is a continuing adventure in today's changing workplace. No better time than in challenging financial times to realize the value of additional education and job training. The tax law should not be forgotten as a partner in this pursuit:

-- An "above-the-line" deduction is available for qualifying tuition and related expenses paid for enrollment or attendance by the taxpayer or the taxpayer's spouse or dependent at any accredited post-secondary institution. The maximum deductible amount is \$4,000 for taxpayers with AGI at or below \$65,000 (\$130,000 for joint filers).

-- A taxpayer's own education expenses may be deducted as a business expense (even if they lead to a degree) if the education: (1) maintains or improves a skill *required* in the taxpayer's employment or other trade or business or (2) meets the express *requirements* of the taxpayer's employer, laws or regulations, *imposed* as a condition to the taxpayer's retention of an established employment relationship, status, or rate of compensation.

-- Up to \$5,250 of payments received by an employee from an employer for tuition, fees, books, supplies, etc., under an employer's educational assistance program may be excluded from gross income. These courses may only be covered if they involve the employer's business or are required as part of a degree program.

3. Understand the implications of life changes

Irrespective of what economic or tax law changes are taking place on the national level, what changes in your personal life of course is what's most important to you. Often, there can be many tax benefits and pitfalls associated with these "life changes." Perhaps 2009 is the year that you plan to get married, expect the birth of a child, change jobs, retire, move, start or end

a business, or finalize a divorce. Each of these life changes has tax implications - some good, some not so good or maybe both - that you should understand and address.

4. Install energy saving property

Individuals and businesses can take advantage of a host of energy tax incentives in 2009. The energy tax incentive that benefits most individuals is the Code Sec. 25C residential energy property credit, which Congress recently reinstated for 2009. The Code Sec. 25C credit is worth up to \$500 and is available for nonbusiness energy property that meets the requirements for qualified energy efficiency improvements or qualified residential energy property expenses. For example, eligible improvements include insulation materials and exterior windows, such as exterior doors and skylights.

Additionally, many energy incentives have been extended through 2009 to encourage businesses to produce renewable energy or make energy saving improvements. The Code Sec. 25D residential energy efficient property credit is extended through December 31, 2016. Taxpayers can also use the Code Sec. 25D credit to offset alternative minimum tax liability. Congress also extended the credit for producing electricity from qualified wind facilities through December 31, 2009, and the credits for producing electricity through biomass and other qualifying renewable sources through September 30, 2011.

5. Take advantage of lower rates on long-term capital gains and dividends

Under current law, taxpayers in the 10 and 15 percent tax brackets benefit from a zero percent long-term capital gains tax rate in 2009 (through 2010). The zero percent tax rate also applies to qualifying dividends paid to taxpayers in the 10 and 15 percent tax brackets. Taxpayers in higher brackets are subject to a maximum rate of 15 percent on long-term capital gains and qualifying dividends in 2009 (through 2010). However, the rates could go up in light of the current economic crisis. Higher rates may come either in mid-year 2009 or not until 2011. Investors should keep these contingencies in mind in connection with ongoing buy and sell strategies, along with carefully keeping track of any capital loss carryforwards that may be available from recent stock transactions in 2008.

6. Take advantage of foreclosure help

When a lender forecloses on a home, sells the property for less than the borrower's outstanding mortgage, and forgives all or part of the unpaid mortgage debt, the homeowner recognizes cancellation of debt income, which is taxable income to the individual under the Tax Code. Through December 31, 2009, the tax law excludes from income tax discharges of up to \$2 million (\$1 million for a married taxpayer filing a separate return) of debt if the debt is secured by a principal residence and it was incurred in the acquisition, construction or substantial improvement of the principal residence.

In addition, the IRS is expediting requests for subordination or discharge of tax liens on properties that can otherwise be saved by mortgage refinancing or short sales. Many distressed homeowners overlook this potentially valuable help.

7. Consider the first-time homebuyer tax credit

If instead of being on the foreclosure end of the housing crisis, you are looking to take advantage of lower housing prices, consider the tax advantages of the new first-time homebuyer tax credit. For those facing foreclosure, too, this new tax credit may help sell their homes in a short sale situation that may salvage more of their equity.

The first-time homebuyer tax credit may be one of the biggest tax breaks now available for homebuyers, but it is only temporary. The first-time homebuyer tax credit is a temporary, refundable tax credit equal to 10 percent of the purchase price of a home, up to \$7,500 (\$3,750 for married individuals filing separately). The credit is effective for homes purchased on or after April 9, 2008 and before July 1, 2009. It phases out for individual taxpayers with adjusted gross income exceeding \$75,000 (\$150,000 for joint filers). The credit must be repaid in equal installments over a 15-year period. However, the repayments are interest-free. As mortgage money begins to be freed up and housing prices stabilize, the first-time homebuyer tax credit promises to help buyers swing a purchase and sellers swing the sale.

8. Prepare for the reduced homesale exclusion

For those with a vacation home or rental property, strategies for the eventual sale of those properties need to be revised due to a change in the law. Beginning in 2009, homeowners will not be able to exclude from gross income gain from the sale of a principal residence attributable to periods that the home was not used as a "principal residence" ("non-qualifying" use). This rule especially impacts owners of vacation homes or rental properties who later make those properties their permanent residence.

The new rule, which was part of the 2008 Housing Act, applies to home sales that occur after December 31, 2008, but is based only on non-qualified use periods that begin on or after January 1, 2009. The 2008 Housing Act provides the formula for determining how excluded appreciation attributable to nonqualified use is calculated. Gain will be allocated to periods of nonqualified use on a pro-rata basis under the law.

9. Make a business contribution to charity

Businesses with excess inventory may be eligible for a tax deduction if they donate books, computers or food. Through December 31, 2009, qualifying businesses can take advantage of

enhanced deductions for contributions of food to a charitable organization, or books to a school and computer equipment to a school or library. The business must operate as a C corporation for donations of computers and books. A C corporation may also deduct basis plus half of the appreciation attributable to inventory (or stock in trade or real or depreciable personal property used in their trade or business) donated to a charitable organization for use in caring for the ill, needy or infants. A C corporation may also deduct basis plus half of the appreciation when it donates scientific property to a college, university or tax-exempt research institution for use in research.

Additionally, S corporation shareholders are also eligible for special tax treatment for charitable contributions of qualifying property through 2009. For businesses that are looking for ways to give back to their communities, yet preserve their bottom lines during tough economic times, these charitable contribution opportunities might prove a perfect fit.

10. Don't forget the tax "extenders"

Many popular individual and business tax incentives, referred to as "extenders" because Congress typically renews them every year or two, are available through 2009. For 2009, individuals can again take advantage of the state and local sales tax deduction (in lieu of the state and local income tax deduction), the \$500 additional standard deduction for real property taxes (\$1,000 for joint filers), and the higher education tuition deduction. Teachers and other education professionals can also deduct, above the line, up to \$250 of certain out-of-pocket classroom expenses in expenses in 2009.

Business tax incentives extended through 2009 include the research tax credit, the New Markets Tax Credit, the deduction for certain charitable contributions, and the 15-year cost recovery period for qualifying restaurant and leasehold improvements.

Please contact our office if you have any questions about these 10 tax planning areas. We'll be happy to discuss them in more detail and craft a tax strategy that fits you.

Caution:

This article is intended to provide general information only. Since every situation is unique we strongly advise that you seek guidance from a professional on the specifics of your situation. Please contact us with any questions or comments at: info@sharkcpa.com or (508) 584-2120.