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SUGGESTIONS FOR PERSERVING WEALTH

December 3, 2009

Both Congress and the President respectively passed and signed a major tax bill in 2009. This tax legislation included approximately $326 billion in new tax cuts. As you may already be aware, the provisions in the new tax bill are designed to stimulate the economy and to relieve taxpayers that have suffered job losses and other setbacks from the recession. A brief summary of select provisions follows.

Cash For Clunkers Continuation?

The cash for clunkers program has formally ended. Yet, taxpayers who did not have a clunker to “trade in” for a new fuel efficient vehicle still have opportunities to take advantage of tax savings in connection with new car buys. Specifically, the stimulus bill created an “above-the-line” deduction (i.e., therefore having more tax saving value relative to a deduction, which is subtracted from adjusted gross income) for state and local sales taxes on new vehicle purchases made between February 17, 2009 and December 31, 2009. The above-the-line deduction is limited. Taxpayers may deduct the sales taxes on the first $49,500.00 of the car’s price. The deduction phases out between adjusted gross income (AGI) levels of $125,000.00 and $135,000.00 for single taxpayers and $250,000.00 and $260,000.00 for married taxpayers. Please note, however, that this deduction is not available if the taxpayer elected to claim state and local taxes as an itemized deduction. Since most itemizers claim deductions for state and local taxes paid during the tax year, the benefit of this provision appears muted.

Personal Exemption Phase Outs

In 2009 the personal exemption of $3,650 that taxpayers received for themselves, their spouses and their dependents phases out by $24.33 for every $2,500 of AGI above a designated high-income threshold. This threshold in 2009 is:

$166,800.00	single taxpayers
$250,200.00	married taxpayers
$208,500.00	heads of household
$125,100.00	married couples, filing separately

However, in 2009, each personal exemption cannot be reduced to lower than $2,433.00.

Personal exemptions are not the only items that phase out. As you may already be aware, popular itemized deductions such as mortgage interest and business expenses are also phased out in 2009. These deductions are reduced by an amount equal to 1% of any AGI that exceeds $166,800.00 ($83,400.00 for married couples filing separately) up to a maximum reduction of 26.67%. Please be aware, however, that in 2010 both the personal exemption and itemized deduction phase outs are scheduled to be eliminated for one year. In 2011, these phase outs are scheduled to reappear at triple their 2009 rates. If these phase outs reappear, beginning in 2011 your personal exemptions can be eliminated completely and the affected itemized deductions can be reduced by 80%. Please note that these phase outs are connected to your AGI level. Again, this is why “above-the-line” deductions are valuable relative to itemized deductions. Accordingly, a lower AGI may salvage or at least offset some of the adverse effects of these phase outs.

Small Business Owner Benefits

The tax bill allows certain small businesses with under $15 million in annual sales to carry 2008 losses farther back to receive refunds against taxes paid in prior years. Normally, the net operating loss carry back period is only two years, but certain businesses that meet all the restrictions can elect a carry back period of three, four or five years.

The stimulus bill will also allow taxpayers to differ cancellation of debt (COD) income incurred in 2009 and 2010. COD income arises any time a creditor “forgives” or excuses a debtor’s obligation to pay the liability. COD income can arise from paying less than 100% of the liability, from refinancing any existing loan, from exchanging an old loan for a new loan or any other modification. The deferred COD income will be recognized over five years beginning in 2014.

Next, the tax bill also lowered withholding and estimated tax requirements for certain taxpayers with AGI’s under $500,000 who earn at least half of their income from a small trade or business. Qualifying taxpayers will only need to pay an amount equal to 90% of their 2008 tax liability throughout 2009 in order to avoid underpayment penalties. Currently, the requirement is to pay 110% of the previous year’s tax liability in order to avoid the underpayment penalty. For example, if your AGI was over $150,000 in 2008, you can generally avoid penalties by paying at least 90% of your 2009 tax liability or 110% of your 2008 liability through withholding and estimated taxes. Taxpayers under $150,000 need only pay 100% of their 2008 tax liability.

Congress is planning to consider legislation to reform the estate tax prior to its scheduled repeal beginning January 1, 2010. The estate tax is scheduled to reappear at higher rates and lower exemption thresholds January 1, 2011. Any bill that Congress considers will need to be passed prior to year end 2009, which may or may not occur. We will, of course, keep you apprised as to the status of this legislation.

If you have any questions concerning the information in this newsletter, please call Glenn Booker at (229) 883-2441 or email him at glenn.booker@gwsh-law.com.

GMB/32-335.903