

“THE NEWSLEDGER”

CONGRESS AND THE ECONOMY

Congress truly went to work in the first half of this year after encouragement from President Obama. The President was pushing job creation and deficit reduction. He proposed new tax credits, extensions of old tax credits, and other tax incentives.

Congress and President Obama extended the COBRA Subsidiary through March 31, 2010, where terminated employees could continue with their former employer's health plan at 35% of the cost.

THE HIRING INCENTIVES TO RESTORE EMPLOYMENT (HIRE) ACT

The HIRE Act was signed on March 18th which provides payroll tax relief, a worker retention tax credit and enhanced Code Section 179 depreciation expensing. The HIRE Act provides hiring incentives by temporarily suspending the 6.2% UASDI tax paid for newly hired qualified employees.

The Act also created a worker retention tax credit that allows an employer to claim a business tax credit of the lesser of \$1,000 or 6.2% of each qualified employees' wages during a 52-week consecutive period. An employee qualifies if they were not employed for 60-days prior to employment, or alternatively, did not work more than 40 hours for their previous employer during the 60-day period prior to employment.

The third part of the HIRE Act extended the increased Code Section 179 depreciation expensing of \$250,000 from December 31, 2009 to December 31, 2010. The investment limitation

remains as \$800,000 for Code Section 179 depreciation expensing.

THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010

President Obama signed the Act on March 30th which is bringing higher income Medicare taxes, tax credits for employer provided health insurance, and other tax provisions. In 2013 there will be additional Medicare taxes on taxpayers with higher income. The new law imposes a 0.9% Hospital Insurance tax on earned income exceeding \$200,000, except for married couples filing jointly where the tax is imposed on earned income exceeding \$250,000. Also imposed is a 3.8% Medicare contribution tax on investment income of higher-income taxpayers.

Employers who pay at least 50% of the premium cost toward health insurance coverage could receive up to a 35% tax credit of the premiums paid toward health insurance. The full credit is available to small employers with less than 10 full-time employees and average annual wages of less than \$25,000. The credit is reduced by 4% for each \$1,000 that the average compensation exceeds \$25,000 and 6.667% for each full-time employee in excess of 10. Tax-exempt employers may be eligible for a 25% tax credit after 2013. In 2013 the credit increases to 50%, 35% for tax-exempt employers, and the credit may only be taken in two tax years beginning after 2013.

Other notable tax provisions for 2013: a \$2,500 cap on FSA contributions; and an increase from 7.5% to 10% of AGI reduction in itemized medical expenses. In 2014 there will be accelerated corporate tax payments.

HOUSE PASSES EXTENDERS BILL, SENATE DEBATES

The House passed an extenders bill which would extend many individual, business, charitable, and energy incentives that were set to expire at the end of 2009. The bill would extend those incentives through the end of 2010. Incentives include state and local sales tax deductions, higher education tuition deduction, IRA charitable contribution deduction, biodiesel incentives and others.

The Senate is debating the inclusion of revenue raisers affecting S Corps. The House bill imposes self-employment payroll taxes on S Corp pass-through income, where the S Corp is engaged in a professional service business.

HEALTH CARE COVERAGE EXPANDED

The IRS has issued regulations expanding health insurance coverage for children under the age of 26 regardless of student status and residency. For first plan years starting on or after September 23, 2010, the only factors for keeping children on their parents plan are age and relationship. They must be under 26 and must be their child. Other factors that are eliminated are the child's employment status and eligibility for other coverage. However, grandfathered health plans disallow children under the age of 26 if he or she is eligible to enroll in an employer-sponsored health plan.

COVENANT NOT TO COMPETE IS A 15-YEAR INTANGIBLE ASSET

Regardless of how long a covenant not to compete is it must be amortized over 15 years. Code Section 197 requires that when a covenant not to compete is connected to a stock acquisition or a stock redemption, the covenant must be amortized over 15 years. The Tax Court ruled that when the owner of a corporation redeemed all of their stock, the \$400,000 paid for a one-year covenant not to compete was to be treated under Code Section 197. The corporation's accountants thought otherwise and as a result, the IRS imposed an accuracy related penalty under Code Section 6662.

2010 VEHICLE DEPRECIATION LIMITS

The IRS released the new depreciation limits for business automobiles, trucks and vans placed in service during 2010. The inflation-adjusted limits have increased from 2009. President Obama has proposed extending the \$8,000 bonus depreciation on new automobiles under Code Section 168(k) which expired in 2009.

The maximum depreciation amounts for passenger automobiles first placed in service during 2010 are:

- \$3,060 for the first year;
- \$4,900 for the second year;
- \$2,950 for the third year; and
- \$1,775 for each tax year thereafter.

The IRS allows higher depreciation deductions for trucks and vans due to the higher purchase price of these vehicles. The amounts for 2010 are:

- \$3,160 for the first year;
- \$5,100 for the second year;
- \$3,050 for the third year; and
- \$1,875 for each tax year thereafter.

HSA LIMITS REMAIN UNCHANGED IN 2011

In 2010 and 2011, the limit on contributions for an individual with self-coverage under a High Deductible Health Plan is \$3,050 and \$6,150 for an individual with family coverage. A High Deductible Health Plan is defined as a health plan having an annual deductible of greater than \$1,200 for self-only coverage and at least \$2,400 for family coverage and a maximum out of pocket cost of \$5,950 and \$11,900 for self-only and family coverage, respectively.

ENERGY CREDITS PHASE OUT FOR VOLKSWAGEN HYBRIDS & LEAN BURN VEHICLES

The IRS announced that the energy credits for Volkswagen and Audi hybrids and advanced lean burn technology vehicles will be phased out beginning July 1, 2010. Purchases made after July 1st will be qualified for a 50% reduced credit. The reduced credit ranges from \$575 to \$850 per

vehicle. The credit was set to phase out in the quarter following the 60,000th purchase of a qualified vehicle. Volkswagen reported that the threshold was met in the first calendar quarter of 2010.

FRIVOLOUS ARGUMENTS

The IRS has updated its list of frivolous tax positions. The maximum penalty per argument is \$5,000, up from \$500, under Code Section 6702. The list consists of positions deemed frivolous by the courts or has no validity under existing law. Positions include: Not filing a tax return because the filing of a tax return is Voluntary and not required; Not paying taxes because the payment of federal taxes are voluntary; The Fifth Amendment privilege against self-incriminating grants taxpayers the right not to file returns or the right to withhold financial information from the IRS; The Sixteenth Amendment does not authorize a non-apportioned, direct income tax; and claiming a refund of an amount of withheld income that is obviously false because it exceeds the taxpayers reported income. The list goes on and on at IRS.gov.

The IRS levied a \$10,000 penalty on an individual taxpayer for litigating his underlying tax liability and arguing the IRS's use in its discretion in sustaining a proposed levy.

TAXABLE INCOME???

Considering whistleblowing? Well if you do, and you succeed, the payments that you receive will have to be included in your gross income. A taxpayer received \$8.75 million payment in settlement against a government contractor under the False Claims Act. The \$3.5 million in attorneys' fees were allowed as a miscellaneous itemized deduction.

False Imprisonment? A taxpayer had to include her settlement payment for false imprisonment under Code Section 104(a)(2). She was misinformed that the settlement was not taxable. The wrong information came from a misinterpretation for the Code Section. Income damages received as compensation from personal physical injury are excluded from

income. The tax payer claimed that the act of being physically restrained resulted in the deprivation of physical liberty that caused physical injury. The court was not persuaded and responded that in the matter of false imprisonment - 'restraining the victim's freedom does not necessarily mean the victim is physically injured as a result.'

DEDUCTIBLE EXPENSE???

Let's say you travel as a contractor to out of state construction sites; could you deduct those expenses? Generally yes. Unless you're like one couple that primarily lived in a camper and drove their camper to the out of state construction sites. The husband's travel expenses were disallowed because they were not "away from home" and therefore the expenses were not ordinary and necessary. The costs associated with living in the camper near the jobs site were disallowed as well since he was an itinerant.

Remember to keep records of all of your claimed expenses; there have been several instances where deductions have been denied for improper records or failing to keep records to prove entitlement to deductions. This includes deductions taken on Schedule A, Schedule C, and Schedule E. In the instance of one taxpayer, if your keeping records in a diary make sure the diary's copyright date is not a year or two after the tax year in question. Also, if you're keeping records in a diary, don't use the same color ink on every page.

CHANGE OF ADDRESS?

The IRS updates its records each time a taxpayer files a tax return. This includes the taxpayers' address. Now the IRS is using the United State Postal Service to update taxpayer's addresses. Whenever a taxpayer informs the USPS of a change of address, the IRS automatically updates its records of the address change.

ZIMMERMAN & ASSOCIATES EVENTS

Z&A's company picnic included all of the Z&A Professional Building tenants again this year. Z&A

CPA's were joined by Z&A Realty and Wolverine Construction in the summer blast. The food list included Bob's melt in your mouth boneless pork ribs, steak, crabs and catering by Bill Bateman's Bistro Express in Shrewsbury. Z&A sponsored the first annual Beer Pong contest where there was a Zimmerman in each of the final four teams. Bob's team wound up beating his son Shaun's team in the finals. The top three teams won money. Other activities included video games, slot machines, volleyball, badminton, soccer, swimming, hot tubing and basketball. A special thanks to the Zimmermans for hosting, and a job well done by Jeff Quinn for his first attempt at organizing this summer event.

Three new players have been added to our expanding staff of professionals: Michelle McLoughlin, Rachel Hansen and Kristin Redford. All three come with different backgrounds to make Zimmerman & Associates a well-rounded firm.

Kristin joined the firm in March as our receptionist and has been taking on new tasks ever since. She is a hard worker and the voice you hear when you call the office.

Rachel joined the firm in May after a tax season internship with a Westminster CPA firm. She has one more semester at McDaniel College before she graduates with her Bachelor's degree in Business Administration. She plans to sit for the CPA exam in early 2011.

Our newest player is Michelle McLoughlin. Michelle, a graduate of Stevenson University, is joining us with 15 years of experience with specialization in Accounting and Business Assurance services. She will be heading our marketing department and hopes to grow Zimmerman and Associates to unprecedented levels.

We would like to congratulate Jamie Zimmerman on graduating from the University of Alabama. She was the captain of the women's Soccer Team and made the 2010 Dean's list. As a graduation present, Bob bought her a new four door Jeep Wrangler.

Z&A would like to take this opportunity to introduce you to our new found friendly clients:

BAY CONTRACTING & DEVELOPMENT, LLC
EAST COAST MECHANICAL, INC.
BOWLEYS LANE DEVELOPMENT, LLC
TG CONSULTING, INC.
ARISTA CONTRACTING, INC.
MCDONALD PROPERTIES, LLC
MANOR GLADE COMMUNITY ASSOCIATION
WATERWORKS & SITE SERVICES
T&M PAVING, INC.

From all of us here at the Z&A Professional Building – have a great summer.

FOOD FOR THOUGHT

It is not the years in your life, but the life in your years that counts.