

# CPA

FEBRUARY 2005

# Client Bulletin

BUSINESS & TAX PLANNING IDEAS for OUR CLIENTS and FRIENDS

## It's Not Too Late: You Can Still Save on 2004 Taxes

### Tax-year 2004 reminders

December 31, 2004, has come and gone, but that doesn't mean you can't do "tax planning" for 2004 prior to filing your return. Here are some steps you can still take to help lower your tax bill.

**Individual retirement accounts.** If you haven't yet put any money into an individual retirement account (IRA) for tax year 2004, or if you've put in less than the maximum allowed, you still have time. You can contribute to either a traditional or Roth IRA until the April 15 due date of your tax return, without extensions. Ask us if an IRA, Roth, SEP or other retirement plan makes sense for you.

If you do decide to make a contribution for 2004, be sure to tell the IRA trustee (at your financial institution) that the contribution is for 2004. Otherwise, the trustee may report the contribution as being for 2005, when it is received.

You may file your tax return before you make the IRA contribution, but you must be sure to complete the contribution by the filing deadline. If you report a contribution to a traditional IRA on your return, but fail to make it by the deadline, you must file an amended tax return, Form

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1040X, add that amount back to your income on the amended return, and pay tax accordingly.

**Keoghs.** If you are self-employed, you had until December 31, 2004, to set up a Keogh plan. But remember, if you've already set one up, you can make contributions until April 15, 2005—or until your extended due date—and claim a deduction on your 2004 return.



### Credits and deductions

Don't forget to discuss credits and deductions with your tax adviser. Listed below are just a few to jog your memory. Be sure to ask if you're eligible for any others.

**Health insurance.** Self-employed individuals and certain employee-owners of stock in an S corporation may deduct as an adjustment to gross income a portion of the premiums paid for health insurance for themselves, their spouses, and dependents.

**Personal tax credits.** As you may know, tax credits are even more valuable than

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deductions, because they directly reduce taxes, while deductions only reduce taxable income. Ask your adviser if you are eligible for these or other credits:

- **Child tax credit.** This credit is available for each dependent child under age 17. The credit is reduced as adjusted gross income (AGI) reaches the higher brackets.
- **Dependent care credit.** If you incur dependent care expenses so you can work, you may be able to claim a credit for one or more qualifying children.

**Miscellaneous expenses.** Miscellaneous itemized deductions fall into one of three broad categories—unreimbursed employee business expenses, expenses related to investments, and tax-related expenses. They are generally deductible to the extent that they exceed 2% of your AGI in a given tax year. To reach this threshold, don't overlook any qualifying expenses, such as:

- Professional magazine subscriptions
- Membership fees for professional associations or trade groups
- Training courses to help you perform better in your current job
- Rental fees for safe deposit boxes where you store investment documents
- Fees paid to CPAs for tax planning and preparation

#### **Businesses can still save on 2004 taxes and plan for 2005**

Many businesses on a calendar year assume that all year-end tax planning ends on December 31. But there are steps any business can take to cut its 2004 tax bill and get a head start on tax planning for 2005.

#### **Last-minute steps to save in 2004**

**Pay any accrued expenses.** If your company uses the accrual method of accounting, this usually means it can deduct expenses based on when they accrued rather than when they are actually paid. For a company on a calendar year, this means that a bill owed in December but paid in January is deductible in the previous year. However, there is a limit to this rule; payments to certain employees must be paid within 10 weeks after the year end to be deductible. Ask us for details.



**Review retirement plan contributions.** Qualified retirement plans allow contributions to be made after year end, as long as they are made by the due date of the company's return. The due date usually includes any extensions, even if the return is filed before the extended date. This is especially helpful to a company that is expecting a refund. The company can file for an extension, file its tax return, get the refund, and use the refund to help pay the plan contribution for 2004. For example, a C corporation must file its return by March 15, 2005, but if it files for an extension, it has until September 17 to file the return and make any contributions to the retirement plan.

#### **Tax planning for 2005**

Early in the year is also the time to do some tax strategizing for the rest of 2005. Planning ahead is a way to get the most benefit out of any tax strategy.

**Review your current business structure.** The type of business organization you choose determines your legal and tax treatment. The basic categories available in most states are sole proprietorship, partnership, corporation, and limited liability company (LLC). S corporations and LLCs have some tax advantages not available to other business forms.

**Accounting method.** The accounting method you select for your firm plays an important role in determining when you report income and deductions. Generally, small business owners may choose between the cash and accrual methods of accounting. If you choose to use the cash method of accounting, you report income and earnings when they are actually received. Businesses using the accrual method report income in the year it is earned, whether or not it has been received. Those businesses faced with a choice should consult with our office for advice on selecting the most advantageous accounting method.

**Employee vs. independent contractor status.** You may be able to save on employment taxes (as well as on benefits) by classifying certain workers as independent contractors, rather than as employees. However, you must know the special rules for qualifying as an independent contractor, as opposed to an employee. The IRS has recently come down hard on companies that have misclassified workers as independent contractors; you will face stiff penalties and back taxes for misclassifying an employee as an independent contractor. Be sure to discuss your situation with us.

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America Counts on CPAs

## Why Pay Taxes? The Truth About Frivolous Tax Arguments

It's "tax season" and perhaps you're wondering if you really have to pay taxes altogether. Maybe you've heard or read about a taxpayer or group that claims to have a reason or a scheme for not paying taxes. To address the issue, the IRS has published a booklet, the *Truth About Frivolous Tax Arguments*, which highlights some of the more common false "legal" arguments made by individuals and groups who oppose compliance with the federal tax laws.

The arguments generally fall into a handful of major categories, with variations within each category. Several representative examples are presented for your education and entertainment. The arguments range from claims that the government, or the IRS, has no right to collect taxes at all, to claims that a person or group is not subject to the tax laws, to frivolous arguments encountered in collection cases.

Finally, just in case some of these arguments seem tempting, and you

start getting any ideas, we've included a section highlighting the penalties imposed on taxpayers—and their misguided advisers—who pursue these frivolous claims.

### Fictional legal bases

Among the arguments cited, one that continues to be promoted by the unscrupulous, is the so-called "Black Tax Credit." This argument asserts that African Americans can claim a special tax credit on their federal income tax returns, as reparations for slavery and other oppressive treatment suffered by African Americans. A similar frivolous argument has been made that Native Americans are entitled to a credit on their federal income tax returns as a form of reparations for past oppressive treatment.

There are no such provisions in the Internal Revenue Code. Moreover, the IRS has recently indicated that it will crack down on promoters of "slavery reparation tax credit" and "Native American reparations" scams. The IRS has announced that it will label these as frivolous tax returns, which could subject the claimants to penalties.

### More frivolous claims

Well, you get the idea. Suffice it to say that there are a whole host of these frivolous claims and lawsuits out there. Enumerating each one—or even just one from each category—could fill our whole newsletter, and then some. If these have piqued your interest, and you'd like to read more, you can download the *Truth about Frivolous Tax Arguments*, a 54-page book from the IRS, at [http://www.irs.gov/pub/irs-utl/friv\\_tax.pdf](http://www.irs.gov/pub/irs-utl/friv_tax.pdf).

### Penalties for pursuing frivolous tax arguments

As we cautioned earlier, lest any of these arguments tickle your fancy, please note that those who act on frivolous positions risk a variety of civil and criminal penalties. Moreover, misinformed tax preparers who submit returns maintaining groundless positions may be subject to penalties in addition to those imposed on their clients. IRC Section 6673 allows the courts to impose a penalty of up to \$25,000 in certain situations. And they have done just that in many of these cases!

## Recent Tax Law Changes May Affect Your 2004 Taxes

Some recent tax law changes are effective for the 2004 tax year. If these items affect you, be sure to get the details when you speak to your preparer about filing your return.

- **Educators' deduction**—This deduction had expired at the end of 2003, but was restored for two more years. The deduction for books and other classroom supplies (up to \$250) is available to eligible educators in public or private elementary or secondary schools. (IR-2004-124)
- **Clean fuel vehicle deduction**—The maximum amount of this deduction was scheduled to drop, but has been retained at the \$2,000 level through 2005. (IR-2004-125.) Ask your adviser for more informa-

tion on this deduction and the newest vehicles to qualify for it.

- **Child tax credit**—Taxpayers with a credit amount more than their tax could get a refund of the difference, up to 10% of the amount by which their 2004 taxable earned income exceeds \$10,750. This percentage was raised to 15% for 2004, meaning a larger refund for many taxpayers.
- **Combat pay**—Some military personnel receiving combat pay are eligible for larger tax credits because of two recent law changes. Be sure to ask your adviser for more details on combat pay, if this applies to you or a spouse.
- **Sales tax deduction**—Taxpayers who itemize deductions will have a choice of claiming on their 2004 and 2005 returns a state and local tax deduction for either sales taxes or income taxes. Call us to discuss

this and determine what's best for your tax situation.

- **Expense limit for SUVs**—Businesses should be aware of a change regarding the expense deduction for certain sport utility vehicles (SUVs) placed in service after October 22. You may have heard about the so-called "Hummer credit." Well, that's not really a credit at all. But, the old law did allow a first year expense deduction of up to \$100,000 for certain vehicles placed in service before October 23. Under the new law, however, businesses can now generally take a first-year deduction of no more than \$25,000 for an SUV. (The business would depreciate the remaining cost.)

As noted in our last issue, recently enacted tax laws have made other changes that may affect you. Please contact our office for details.

## Extensions of Time to File Your Tax Return

If you can't meet the April 15 deadline to file your tax return, you can get a four-month extension of time to file. The extension will give you extra time to get the paperwork in, *but it does not extend the time you have to pay any tax due.* You will owe interest on any

amounts not paid by the April deadline, plus a late payment penalty if you have paid less than 90 percent of your total tax by that date. You must make an accurate estimate of any tax due when you request an extension. You may also send a payment for the expected balance due, but this is not required to obtain the extension.

To get the automatic extension, ask your preparer to file *Form 4868*,

Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, by the April 15 deadline, or make an extension-related electronic payment.

If you determine that you will need still more time beyond the initial four-month extension, you may be able to get two more months to file. Be sure to ask us about this option if it becomes necessary.

# Tax Calendar

## FEBRUARY 2005

### February 10

**Employees who work for tips.** If you received \$20 or more in tips during January, report them to your employer. You can use Form 4070.

### February 15

**Individuals.** If you claimed exemption from income tax withholding last year on the Form W-4 you gave your employer, you must file a new Form W-4 by this date to continue your exemption for another year.

### February 28

**All businesses.** File information returns (Form 1099) for certain payments you made during 2004. There are different forms for different types of payments. Use a separate Form 1096 to summarize and transmit the forms for each type of payment. See the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G for information on what payments are covered, how much the payment must be before a return is required, which form to use, and extensions of time to file. If you file Forms 1098, 1099, or W-2G electronically (not by magnetic media), your due date for filing them with the IRS will be extended to March 31. The due date for giving the recipient these forms remains January 31.

## MARCH 2005

### March 10

**Employees who work for tips.** If you received \$20 or more in tips during February, report them to your employer. You can use Form 4070.

### March 15

**Corporations.** File a 2004 calendar year income tax return (Form 1120 or 1120-A) and pay any tax due. If you want an automatic six-month extension of time to file the return, file Form 7004 and deposit what you estimate you owe.

**S corporations.** File a 2004 calendar year income tax return (Form 1120S) and pay any tax due. Provide each shareholder with a copy of Schedule K-1 (Form 1120S), Shareholder's Share of Income, Deductions, Credits, etc., or a substitute Schedule K-1. If you want an automatic six-month extension of time to file the return, file Form 7004 and deposit what you estimate you owe.

**S corporation election.** File Form 2553, Election by a Small Business Corporation, to choose to be treated as an S corporation beginning with calendar year 2005. If Form 2553 is filed late, S treatment will begin with calendar year 2006.

**Electing large partnerships.** Provide each partner with a copy of Schedule K-1 (Form 1065-B), Partner's Share of Income (Loss) From an Electing Large Partnership, or a substitute Schedule K-1. This due date is effective for the first March 15 following the close of the partnership's tax year. The due date of March 15 applies even if the partnership requests an extension of time to file the Form 1065-B by filing Form 8736 or Form 8800.

### March 31

**Electronic filing of Forms 1098, 1099, and W-2G.** File Forms 1098, 1099, or W-2G with the IRS. This due date applies only if you file electronically (not by magnetic media). Otherwise, see February 28. The due date for giving the recipient these forms remains January 31. For information about filing Forms 1098, 1099, or W-2G electronically, see Publication 1220, Specifications for Filing Forms 1098, 1099, 5498 and W-2G Electronically or Magnetically.