ZIMMERMAN AND COMPANY CPAs INC

# -------2011 End of the Year Tax Planning-------

Dear Clients and Friends-

Tax planning for year-end 2011 presents new challenges for business taxpayers to reduce or defer federal income tax liability. Although traditional planning techniques remain fundamentally important considerations this year, tax planning is complicated in context of the effective dates for many popular tax incentives, and the anticipation of tax legislation that may be put to a vote in Congress before year's end.

In March of 2010, Congress passed comprehensive health care reform legislation. The Patient Protection and Affordable Care (PPAC) Act was designed to effectuate fundamental reforms to the U. S. health care system. The new law includes over $400 billion in revenue raisers and new taxes on employers and individuals, including a 40-percent surtax on high-end employer–sponsored health plans, an increase in the employee portion of the Medicare tax for high-income taxpayers, new fees on certain health-related industries, shared responsibility for employers regarding health coverage beginning in 2014, and more.

Although provisions of the PPAC Act will be phased in over several years, eligible employers may claim a tax credit for employee health insurance expenses beginning in 2010; certain medical care tax benefits are extended to children under the age of 27 as of March 30, 2010; and in years beginning after December 31, 2010, certain small employer's cafeteria plans can qualify as simple cafeteria plans, under which the applicable nondiscrimination requirements of a classic cafeteria plan are treated as satisfied.

In addition to the PPAC Act, Congress also passed the Hiring Incentives to Restore Employment (HIRE) Act in 2010 which provides tax breaks for businesses to encourage hiring and imposes a number of potential burdens with respect to reporting and disclosure of foreign assets. The Small Business Jobs Act of 2010 was designed to increase lending to small businesses and create incentives for small business investment with the extension of first year bonus depreciation, the extension and increased dollar amounts for Sec. 179 expensing, the five-year carryback of qualified small business credits, and the removal of cell-phones as listed property.

At the end of 2010, within weeks of the scheduled sunset of numerous taxpayer-friendly tax rates and incentives, generally referred to as the "Bush Tax Cuts," Congress passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Tax Relief Act of 2010). The Tax Relief Act of 2010 temporarily extends all the Bush tax cuts for two years, reinstates the estate and gift tax (although at higher rates and with higher exclusion amounts than if the sunset had occurred), and extends many other expired tax benefits including business incentives and energy-related tax provisions. The Tax Relief Act of 2010 also includes an extension of unemployment insurance benefits and a one-year payroll tax cut.

Subsequently, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 repeals two recently enacted Form 1099 reporting requirements that many thought were overly burdensome on taxpayers and also makes changes to the recapture portion of the health insurance tax credit.

Considering this legislation, here are a few tax planning tips for year-end:

- As of January 1, 2013, qualified dividends will be subject to ordinary income tax rates. Accordingly, corporations with excess earnings and profits should consider making larger dividends in 2011 and 2012.
- The Code Sec. 179 deduction is limited to the taxable income of the taxpayer, whereas regular MACRS deductions are not. Foregoing the Code Sec. 179 deduction in 2011 may create a net operating loss for carryback. However, Code Sec. 179 expense deduction in excess of current year income can be carried over to future years and effectively increase the deduction in years when the limitation is expected to decrease. Unless Congress changes the provisions, the expense limitation reverts to $25,000 in 2013.
- In addition to the Code Sec. 179 deduction, the bonus depreciation deduction is extended to property placed in service before January 1, 2013.
- The 15-year recovery period for qualified leasehold improvement property, qualified restaurant property (including restaurant buildings), and qualified retail improvement property applies to property placed in service before January 1, 2012.
- The deduction for energy-efficient commercial building property is available for five years to include qualified property placed in service before January 1, 2014.
- The recognition period for the S corporation built-in gains tax has been reduced through 2012. The relief provided by this provision should be valuable to small family or privately-owned businesses that are forced to downsize and sell assets to raise cash.
- Advance planning is necessary to minimize the threat of the alternative minimum tax at a flat rate of 20 percent.
- Enhanced deduction for food, book and computer donations.
- The following credits are available for 2011:
  - Credit for increasing research activity
  - Work Opportunity Tax Credit
  - Credit for employer- provided childcare
  - Credit for employer's differential wage payments to military personnel

These and other tax planning techniques can be applied to your situation. Please call our office at your convenience for an appointment to discuss your year-end options.

Let’s start planning.

Sincerely,

***Your Friends at Zimmerman & Co. CPAs***