TOP TAX LAW CHANGES FOR 2008

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It seems like nothing stays the same. In the tax planning area change is a constant. It happens every year, although the magnitude of the changes vary from year to year. Knowing changes in tax law may assist you in your individual tax planning.

Changes that occur are a result of changes in the law or as a result of inflation adjustments in accordance with the Internal Revenue Code. Summarized below are some of the changes that may have the biggest impact for the tax year 2008, and some affect your plans and your tax compliance filings for 2007.

! The record keeping requirements for charitable contributions changed. In order to take a deduction on your 2007 income tax returns for 2007 you must have a record of the cash contributions. This may be in the form of a canceled check or a copy of a canceled check, a letter from the charity showing the date and amount of your contribution, or a bank statement that shows the name of the charity along with the amount and date of the payment.

! The earned income amount for child tax credits has increased to $11,750. The earned income credit for the first qualifying child increased to $2,853. With more than one child the maximum earned income credit is $4,716 and it is $428 for no children. For those people that have qualifying children, they should check the limits of earned income that make these credits available.

! The qualifying electric vehicle credit ended, as did the tax relief granted to victims of hurricanes Katrina, Rita and Wilma.

! Qualifying mortgage insurance premiums may be treated as mortgage interest on Schedule A to the IRS Form 1040. The limit on such deductions, if you qualify, appears to be ten percent (10%) of the premiums paid in 2007, and it also appears that this deduction will be available in 2008.

! The maximum amount of income subject to Social Security taxes increased in 2007 to $97,500 and it has again increased for 2008 to $102,000. The withholding tax rate for 2008 remains at 6.2% (12.4% for self-employed) and the medicare contribution percentage remains at 1.45% on all earnings. The Social Security tax increase is $279 from $6,045 to $6,324.00. For those receiving Social Security benefits, there is a cost of living increase in benefit payments for 2008 of 2.3%.

! The mileage rate acceptable to the Internal Revenue Service was increased to 50.5 cents per mile for business related miles, 19 cents per mile for medical or moving purposes, and 14 cents per mile for service to a charitable institution. The comparable rates for 2007 were 48.5 cents per mile for business related miles, 20 cents per mile for medical or moving purposes, and 14 cents per mile for service to a charitable organization.

! The standard deduction has increased for 2008. Singles will enjoy an increase of $100, to $5,450 from the $5,350 allowed for 2007. Married couples filing jointly will see their standard deduction rise to $10,950, $250 more than they can claim on 2007 returns. The standard deduction for heads of household who do not itemize deductions will increase $150, to $8,000 on 2008 returns from $7,850 on 2007 returns.

! The tax brackets will broaden for 2008, meaning more income will be taxed at lower rates. It appears that the 10% bracket on 2008 joint returns will cover the first $16,050 of taxable income. That is an increase of $400 over 2007. Taxing that amount at 10% rather than 15% will save couples $20. Not enough for an expensive dinner or the purchase of a new television, perhaps, but the higher your income, the more you save as more dollars fall into lower brackets. As the top end of the 15% bracket for income rises, for example, some of your income that used to be taxed at 25% will now be taxed at the 15% rate.

! There is a change in the Kiddie tax trigger. That is, the amount of investment income a child under age 19 -- or a full-time student under 24 -- can earn before excess earnings are taxed at his or her parents' rate will rise to $1,800 for 2008, up $100 from 2007.

! Taxpayers will begin to lose the value of their itemized deductions after their taxable income passes $159,950 in 2008; that's $3,550 higher than the $156,400 trigger point for 2007.

! Personal exemptions phase out as income rises. The income levels at which the value of personal exemptions begin to disappear will rise in 2008. For single taxpayers, the trigger point will be $159,950 (up from $156,400 in 2007); for married couples, $239,950 (up from $234,600); and for heads of households, $199,950 (up from $195,500). The rising trigger points save money for taxpayer with incomes above these levels.

! Employers will be allowed to give employees parking valued at $220 a month as a tax-free fringe benefit in 2008. The 2007 maximum was $215 a month. The tax-free limit for transit passes will rise from $110 to $115 a month.

! California has changed its method for computing the LLC fee. Effective for tax years beginning on or after January 1, 2008, the LLC fee will be based on income that is derived from activity in California rather than worldwide income. The computation is relatively straight-forward when the LLC conducts all of its business in California. The computation becomes more challenging when there are investment or portfolio activities and there are managing members in multiple states, accounts outside of California, or business/rental activities in multiple states; the LLC receives income from pass-through entities that may have income in multiple states; and for service or professional business with services conducted by the LLC in other states. The simplification of the fee brackets for LLC's may assist in the computation, with fees for LLC's with income of $250,000 or more, but less than $500,000 at $900; income of $500,00 or more, but less than $1,000,000 at $2,500; income of $1,000,000 or more, but less than $5,000,000 at $6,000; and income of $5,000,000 or more at $11,790.

The listing and summary of information above is intended to provide guidance as to some (but not all) of recent changes in income tax law matters. These changes can provide planning opportunities. However, knowing and understanding the changes is very important for anticipating your filing needs for the year just completed and also planning for the year that has just started.

You can save time and money by preparing thoroughly for a meeting with your accountant or attorney with regard to your tax planning and/or in connection with the preparation of your income tax returns. Have your information summarized in an organized manner, have back up documentation, and inform your tax advisor relating to your situation and changes that have occurred or may occur. You should also inform your tax advisor of recent inheritances or if you anticipate an inheritance within the succeeding year as inherited assets and their income may have a substantial impact on your income taxes and your estate planning needs.

Another area for planning that can be affected by inflation adjustments each year is that of the gift tax exemption. The Internal Revenue Code only allows the gift tax exemption to rise when the inflation adjustment will produce an increase of $1,000 or more. The last increase occurred at the beginning of 2006, when the exemption increased to its current $12,000. The inflation figures for 2007 do not appear to be enough to push it over the next threshold, so it will stay at $12,000 for 2008.

When reviewing your income and doing your tax planning each year, you should use that time as an opportunity to review your estate planning needs and your estate planning documents. A review of your estate planning documents every year or two can be very beneficial and can assist you in making sure that your documents are current, that they reflect your present needs, and that they satisfy your desires and objectives.

THE FOREGOING CONCEPTS AND IDEAS ARE GENERAL STATEMENTS AND ARE INTENDED TO PROVIDE CONCEPTS FOR CONSIDERATION IN BUSINESS AND TAX PLANNING. CAREFUL CONSIDERATION NEEDS TO BE GIVEN BY THE READER REGARDING THE USE AND APPLICATION OF THE CONCEPTS. YOUR LEGAL AND TAX COUNSEL SHOULD BE CONSULTED BEFORE THE IMPLEMENTATION OF ANY OF THE IDEAS INDICATED HEREIN. SHOULD YOU HAVE QUESTIONS REGARDING THIS MATTER, HAROLD S. SMALL, ESQ., CAN BE REACHED AT 12526 HIGH BLUFF DRIVE, SUITE 300, SAN DIEGO, CALIFORNIA 92130 OR AT 858.759.4600.

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