



NEWTONGREENE & ASSOCIATES, PLLC
CERTIFIED PUBLIC ACCOUNTANTS

We believe in education here at Newton, Greene & Associates, PLLC – we feel that taxpayers should be informed of the latest tax law changes and proposals coming out of Congress. An informed taxpayer is equipped to be able to be pro-active and implement ideas that will save money when April 15th rolls around. Below are some of the new tax changes you should be aware of.

I. Newest Piece of Tax Legislation: The Worker, Homeowner, & Business Assistance Act of 2009 (H.R. 3548) -- effective 11/6/09

- On 11/6/09, President Obama signed this new tax law into effect. It extends and expands unemployment tax benefits. Additionally, it expands the homebuyer credit as follows:
 - 1st time homebuyer credit is extended to purchases through 4/30/2010 (and in certain cases through 6/30/2010)
 - There is now a new homebuyer credit for purchases made after 11/6/09: 10% of the cost of a principal residence not to exceed \$6,500 for taxpayers who have owned and used the same residence as their principal residence for *any 5 consecutive* years out of the 8 years prior to the purchase
 - The taxpayer cannot be claimed as a dependent on anyone else's return
 - The taxpayer must be at least 18 years old as of the purchase date
 - The taxpayer cannot buy the residence from a related party
 - The purchase price cannot exceed \$800,000

(Note that this is only a small piece of this new tax legislation. Please schedule an appointment to sit down with us so we can fully evaluate whether other aspects impact you).

II. Tax Laws scheduled to expire after 2009 unless Congress acts to extend them

- The \$250 deduction for teachers who spend money for their classrooms out of pocket (so stock up now!)
- Deduction for sales taxes paid on the first \$49,500 of the purchase price of a new vehicle. Note that this does not have to be added back for AMT purposes (unless you use the sales tax in lieu of state income tax calculation)
- Ability to make tax-free distributions from your IRA to charities of up to \$100,000 for those of you at least age 70 ½
- Waiver of the requirement of taking your required minimum distributions from D.C. plans if you are at least age 70 1/2 , have terminated from service, or due to death



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- For business owners, the ability to expense up to \$250,000 of asset acquisitions in the year of purchase rather than having to depreciate them
- Likewise, the up-front 50% “bonus” depreciation on assets acquired in the year for the business (Note: Even fiscal year businesses lose this after 12/31/09)
- Business owners can enjoy a shorter 15-year amortization period for qualifying leasehold improvements, qualifying restaurant property (if you are a restaurant owner), and qualifying retail improvement property (meaning any improvement to the interior portion of a building if that part is open to the general public and is used in your retail sales business)
- If you are in the restaurant business, the deduction for donating “wholesome foods” inventory to a charity has been enhanced
- If you are in the business of contracting or manufacturing an energy-efficient home, there is a \$1,000 to \$2,000 tax credit if your construction achieves a 30-50% energy savings
- The rule that required your adjusted income to be \$100,000 or less in order to convert your retirement plan into a ROTH IRA ends after 12/31/09. Also, the restriction that prevented conversion if you file your return as married, separate goes away
- There are countless other very obscure tax laws that will be modified or end this New Year’s Eve that won’t be listed here...things ranging from conservation easements, disaster losses, farming businesses, motorsport complexes, Oil & Gas wells, tax incentives pertaining to the District of Columbia, employment tax credits for members of Indian Tribes, items specific to the railroad and mining industries, and so much more

III. Tax Laws scheduled to become first effective in 2009

- Be very careful of which years you use a property for rental or investment purposes, as it may “taint” your ability to sell your home tax-free. The general rule that says as long as you own and use your home as your principal residence for any 2 out of the past 5 years, then you can exclude all of the capital gain from your taxable income (up to \$500,000 if you are married; \$250,000 if you are filing single) may not work if you have certain years of “non-qualified use.” So, be sure that your rental or investment usage is in the last 3 years before you sell. If you use the house as your primary residence, for example, in years 2006-2009 and then rent it out for years 2010-2012 and then sell at the end of 2012, you can still use the general exclusion rule. The non-personal use must be within the last 3 *consecutive* years.
- Changes in the rules regarding who can claim the dependency exemption for children of divorced parents. The custodial parent now can prospectively revoke an assignment to the non-custodial parent of the exemption (even if the

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custodial parent previously granted the exemption to the non-custodial parent forever!). The definition of “custodial parent” has also changed somewhat...

- Beginning with the 2009 tax year, the due date for filing a partnership or a trust tax return that is under extension is Sept. 15th, no longer Oct. 15th, which is still the extension due date for individual tax returns.
- The Hero’s Act has increased the penalty for not filing your tax return on time. The penalty for not filing a return within 60 days of its due date (including extensions) is the lesser of \$135 or 100% of the net tax due on that return
- If you employ someone in your business who commutes to work via their bicycle, you can reimburse them up to \$20 per month that they commute on their bicycle. This reimbursement won’t be included in their W-2. Unlike other transportation fringe benefits, though, this one must be entirely employer-funded. It can’t be done through salary reductions
- The HOPE education credit has been enhanced (for 2009 and 2010 only) and now covers up to 4 years of higher education, and the maximum credit has increased from \$1,800 to \$2,500. The income phase-outs have also been increased. So, hopefully more folks will qualify.
- Also only for 2009 and 2010, employees will enjoy the “Making Work Pay” credit, which is 6.2% of their earned income (maximum credit is \$800 if you file a joint return; \$400 if single). This is claimed automatically since the IRS has adjusted the withholding tables.
- If you put energy-efficient residential home improvements into effect in 2009 or will in 2010, there is a \$1,500 credit (max). The credit is 30% of the improvements. Items qualifying include energy-efficient insulation, doors, windows, roofs, and HVAC systems.
- The dollar cap on the credit for solar electric systems, fuel cells, solar hot water heaters, geothermal heat pumps, and wind turbines have been removed. The credit is also 30%
- The earned income tax credit for 2009 and 2010 has been enhanced for individuals with 3 or more children. Also, the phase-out thresholds have been increased
- For 2009 and 2010, more education-related expenses will qualify for 529 plan expenses. These will now include computer technology, computer equipment, and internet access – as long as the beneficiary is enrolled in college at the time
- If you are an employer and own life insurance policies on the lives of any of your employees, be very careful to follow good “form” or else you may have negative consequences. The IRS put out a notice in June that says, among of things, you must issue a “proper notice” to the employees AND obtain their written consent for the policy to be issued in the first place. If you don’t, the

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excess of the policy proceeds over the premiums paid will be taxable income to your business

IV. Other items to be aware of (coming from recent Tax Court case rulings)

- Be very, very careful to review all of your beneficiary designations to ensure they are updated every time your life situations change. There was a recent court case where an ex-spouse was awarded a very large retirement portfolio despite the clear intention of the taxpayer that was laid out in the divorce decree. Beneficiary designations trump *anything* else!
- If you are taking early distributions from your retirement account in the form of “systematic periodic distributions” (the “72T” method) to avoid the 10% early distribution penalties, the IRS has said that extra distributions taken to pay for qualified educational expenses won’t invalidate the 72T election.
- Taxpayers who are victims of Ponzi-type or Madoff-type schemes can deduct the losses as ordinary (not capital) losses if certain criteria are met. If they are met, the loss can be between 75-95% of the loss using a safe-harbor formula.
- The IRS has cracked down on the tax treatment associated with repayments of funds loaned to an S corporation by its shareholders. Without careful planning, the repayments could be taxable and worse, generate ordinary (not capital) gains! Please plan carefully and consult us anytime you have to infuse capital into your S corporation.
- For 2009, S corporation owners can establish and fund a 401(k) plan and with proper planning can sock away \$49,000 (\$54,500 if the shareholder is over age 50 at year-end). For S corps that have had a profitable year and need to find some much-needed year-end ways to get the profit down, this may be a great way to do so. Many financial planners also feel that this is a great year to fund a 401(k). So, consult your planner and us about this idea to see if it makes sense for your company
- If you are a victim of a seizure by the IRS of business or investment real estate you own, let us know quickly. If this seizure causes capital gain to be recognized, there are specific time tables that dictate how long you have to “replace” the property with like-kind property and defer having to recognize the income.
- If you are a business owner and will have a net loss for 2009, talk to us about whether it might make sense to carry back some of that loss to tax years 2005-2008. A special election is required on your 2009 return if that is to happen. If you paid high taxes in those previous years, this may be a good opportunity to amend those years and get some of that back

V. North Carolina Tax Law aspects

- If you are ever considering buying a NC business, consider getting from the NC Department of Revenue a “Letter of Good Compliance” on the business.

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This is important because it will tell you whether the previous owner owed sales taxes. If they did, it is possible that liability could follow and now be yours.

- The NC General Assembly this year increased the tax on a carton of cigarettes to 45 cents. They also increased the tax on a bottle of wine by 20 cents and by 5 cents on a 6 pack of beer
- NC is toying around with whether and how much to subject digital downloads to sales tax...they are supposedly going to give us guidance on this in a month or so
- NC has told the CPA community that any taxpayer who claims 4 dependents or more on their 2009 tax return will most likely get audited. The audit, though, won't spill over into other areas of the tax return. This audit will be exclusively to verify that all the dependents are legitimate, which means you'll need to provide social security cards probably. They say that false dependents have been a very high area of non-compliance. Last year they tagged 7,200 returns (less than 1% of the returns filed) and the "errors" they caught saved the state \$4.8 million last year
- If you are a business owner and hire someone who does not have a social security number but rather an "ITIN" (Individual tax identification number) and you pay them over \$1,500 per year, you are required to withhold 4% in NC tax and remit to the government
- NC is implementing a surtax for 2 years, beginning in 2009. This is a percentage of the total tax otherwise calculated on the state tax return (before considering any credits or withholdings or estimated payments sent in). For married folks filing a joint return, the surtax is 2% if their NC taxable income is over \$100,000 but not over \$250,000. It's 3% if over \$250,000.

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