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Now is an excellent time to implement strategies to minimize your taxes

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As 2010 gets into full swing, now is an excellent time to plan for the year ahead and to implement strategies to minimize your taxes. You may not have much control over the market values or a myriad of other factors, but you can, through smart, proactive planning, manage your tax situation to maximum benefit. This column will explore a variety of planning strategies you should consider utilizing in 2010.

Claim all business losses. Generally, a net operating loss (NOL) may be carried back two years to obtain a current tax refund, which can provide a cash infusion in times of loss. If you were not a recipient of any of the government's TARP assistance you may be able to carry back losses up to 5 years. Any losses not absorbed in the prior periods are then carried forward for up to 20 years. If you prefer, you may choose to waive the carryback and carry the entire loss forward, which may be beneficial if your marginal tax rate in the carryback years is unusually low, or if the AMT in prior years makes the carryback less beneficial.
Section 45L. The National Energy Policy Act of 2005 established the "Energy Efficient Home Credit," whereby homebuilding contractors are eligible for a tax credit by building energy efficient homes. The homes must be located in the United States and construction must have been completed after August 8, 2005. The eligibility requirements and credit amounts are provided in the Internal Revenue Code Section 45L.

The credit distinguishes between manufactured homes and dwelling units (i.e. apartments and condominiums within buildings no higher than 3 stories). For manufactured homes, the credit is $1,000 or $2,000 depending on the amount of energy savings that is achieved. Builders of dwelling units can qualify for a $2,000 credit per unit. The energy savings requirement levels are established by the International Energy Conservation Code and are compared against homes and units of similar size and climate zone.

To claim the credit, a contractor must obtain a certification regarding their energy savings levels by a certified third party. The certifier needs to be approved by the Residential Energy Services Network (RESNET) and cannot be related to the contractor. The certifier calculates the energy cost savings using procedures prescribed by RESNET, and computer software approved by the IRS. The contractor does not need to attach the certification to the tax return in the tax year which they are claiming the credit. They should, however, maintain the certificate in their books and records as support for the credit taken.

The credit is claimed by the taxable entity. If the contractor is an entity that is a flow through (i.e. S-Corporation or Partnership), then the credit is reported by the shareholders or partners. Consider this credit when planning for your tax liability this year.

Write off bad debts. Business bad debts are treated as ordinary losses. They can be deducted when they become either partially or wholly worthless. For individuals and certain other entities, the IRS may consider loans made to closely held corporations as non-business related and, if not repaid, reclassify them as non-business bad debts (wholly worthless), which are treated as short-term capital losses.

Maximize tax credits. Tax credits reduce your business's tax liability dollar-for-dollar. Credits that may be available include Empowerment Zone, Research & Development, and a variety of others.

Follow the rules for nonqualified deferred compensation. Nonqualified deferred compensation arrangements are promises to pay executives and key employees sometime in the future for services currently performed. The plans are often geared to the individual and based on his or her performance or on the company's performance. Under the Pension Protection Act of 2006, employers with under funded or terminated single-employer pension plans cannot fund nonqualified deferred compensation plans.

Look into qualified deferred compensation plans. To attract and retain the best employees and manage your tax liability, qualified deferred compensation plans can be useful. They include pension, profit-sharing, and 401(k) plans, as well as Savings Incentive Match Plans for Employees (SIMPLEs), Simplified Employee Pensions (SEPs), 403(b)s, and 457s. You can enjoy a tax deduction for your contributions to employees' accounts under the plan, and they offer tax-deferred savings benefits for employees.

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