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Social Security Statements: The Social Security Administration (SSA) announced that Social Security statements may now be viewed online at http://www.ssa.gov/mystatement . The statement provides workers with an estimate of their benefits under current law and an earnings record with Social Security and Medicare taxes paid over their working career. To get an online statement, a person must be 18 or older and be able to provide information that matches their SSA file. After verification, an account is created with a unique user name and password to access the online statement.

Intuit Assisted Payroll Users: Please access your payroll reports and either print out copies of the reports or save a PDF of the reports, including the W-2s, on your computer. You need these in your records for insurance and audit purposes.

IRS Audits of Retirement Plans: IRS is targeting retirement plans with real estate investments and participant loans for audit. This does not mean that your plan has a problem, but it does mean that the audit rate is going up for the Forms 5500 that report these situations. For plans owning real estate, IRS will want proof of periodic appraisals and that the property is reported at fair market value. With loans, IRS will demand to see the promissory note and proof that the loan is being repaid.

Medical Flexible Spending Accounts (FSA): Many larger employers have offered their employees Flexible Spending Accounts, but due to several drawbacks smaller employers seldom offer these. In 2012 there is no limit on contributions to medical FSAs. Starting in 2013, there will be a cap on contributions of $2,500.

The End of the Bush Tax Rates?: The Bush tax rates and other tax provisions are scheduled to expire at the end of 2012, while other taxes are scheduled to become effective for 2013. While predicting the future of federal and state tax systems and the economy is always difficult, predictions in an election year are all but impossible.

Even so, based on a variety of current tax and economic factors, significant current and future income tax, estate tax, and gift tax can be saved by applying these strategies. Also, of particular note, these tax provisions will become effective in 2013:

The 3.8% Medicare contribution tax on investment income
The .9% additional Medicare tax on high wage and Self-employed earners
Increase AGI threshold for deductible medical expenses from 7.5% to 10%

Pay Dividends from Your C Corporation in 2012: Normally, dividend treatment is something to avoid because of the double taxation issue. Your corporation pays income taxes on the earnings that generate the dividends, then you have to pay income taxes too when the earnings are paid out to you. This harsh effect has been softened somewhat for the last several years because the maximum dividend tax rate was only 15%. However, in 2013, barring any tax legislation, this favorable maximum rate is scheduled to skyrocket. The actual tax rate you will pay on dividends will depend on your marginal ordinary tax rate. However, for taxpayers in the top ordinary tax rate bracket, it looks like the federal tax rate could be as high as 43.4% after 2012. This strategy has limited application for Personal Service Corporations.

Take Care of Your Charitable Deduction Documentation: Taxpayers claimed a charitable contribution deduction primarily made up of checks written to their church for amounts larger than $250. The church acknowledged its receipt of the contributions on a year-end statement to the taxpayers, but there was no language concerning whether any goods or services were provided in consideration for the contributions, as required under IRC Sec. 170(f)(8) . The Tax Court disallowed the deduction and reminded taxpayers that the terms of the statute require an affirmative statement that no goods or services were received. *David Durden* , TC Memo 2012-140 (Tax Ct.).

Recent Graduates' Job Search Expenses: Unfortunately, the costs of finding first-time employment are not deductible, since first-time employment by definition cannot be in the taxpayer's same trade or business (Rev. Rul. 75-120, 1975-1 CB 55), but the moving expenses associated with first-time employment are deductible if the time and distance tests in IRC Sec. 217(c)(1) are met.

2012 Cost-of-Living Limits

IRA Contribution Limit $5,000
IRA 50 & Over Catch-up Contribution $1,000
401(k) Deferral Limit $17,000
401(k) 50 & Over Catch-up Contribution $5,500
SIMPLE Deferral limit $11,500
SIMPLE 50 & Over Catch-up Contribution $2,500
Annual Compensation limit $250,000
Defined Contribution IRC Sec 415 limit $50,000
Compensation limit for SEP eligibility $550
IRC Section 179 $139,000
Estate Tax Exclusion $5,120,000
Gift Tax Annual Exclusion $13,000
Social Security Wage Base $110,100
2011 & Prior Years' Limits

2012 Standard Mileage Rates:

Business mileage rate **$0.555**
Medical & Moving mileage rate **$0.23**
Charitable mileage rate **$0.14/mile**

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The Advisability of Paying Corporate Dividends This Year

Business owners often grow their business by continually reinvesting earnings and profits. This is a good strategy, but eventually most business owners want to tap into these earnings. The problem is that withdrawing cash from a corporation can be very tax inefficient. The purpose of this is to alert you to tax planning opportunities that exist this year that will allow you to tap into the hard-earned cash of your business at historically low tax costs.

Normally, dividend treatment is something to avoid because of the double taxation issue. In effect, dividends are subject to double taxation. Your corporation pays income taxes on the earnings that generate the dividends, then you have to pay income taxes too when the earnings are paid out to you. This harsh effect has been softened somewhat for the last several years because the maximum dividend tax rate was only 15%. However, in 2013, barring any tax legislation, this favorable maximum rate is scheduled to skyrocket. The actual tax rate you will pay on dividends will depend on your marginal ordinary tax rate. However, for taxpayers in the top ordinary tax rate bracket, it looks like the federal tax rate could be as high as 43.4% after 2012.

If your corporation has built up substantial earnings and profits over the years, sometime before the end of 2012 is an ideal time to consider paying some dividends. Although, double taxation is assured, a 15% tax rate may be quite manageable. In addition to getting cash into your hands at historically low tax rates, paying dividends this year may have additional benefits for your corporation:

- *Reduce Future Exposure to Accumulated Earnings Penalty Tax.* A profitable corporation becomes exposed to the accumulated earnings penalty tax when it accumulates earnings in excess of reasonable business needs and does not pay dividends. Right now, the accumulated earnings tax rate is only 15%. Absent a law change, after 2012, the accumulated earnings tax rate will return to the maximum individual federal rate on ordinary income—39.6% for 2013. Therefore, now is a great time to pay out dividends and reduce your corporation's exposure to this penalty tax.

- *Better Tax Treatment for Distributions in Future Years.* To the extent 2012 cash distributions reduce the corporation's earnings and profits, there's a greater likelihood that distributions in future years will be treated as tax-free returns of capital or as long-term capital gains (which may once again be taxed at lower rates than dividends).

- *Establish a Dividend Paying Record.* A history of paying dividends will make it more difficult for the IRS to characterize compensation paid to business owners (which is deducible by the corporation) as disguised dividends (which aren't deductible). In other words, future compensation amounts will be easier to defend as reasonable if at least some dividends have been paid in the past.

As you can see, the current low federal tax rates on dividends make the idea of taking corporate distributions a better idea than at any time in recent memory. With careful planning, you may benefit from having your corporation make dividend distributions this year

Expiring Tax Rules

Refinance and restructure business debt: To the extent profitable businesses have not refinanced their debt, this should be a top priority. Converting variable rate term debt to a fixed rate structure is generally advisable. In addition, if equity owners have advanced funds to their business entity, they should consider refinancing through a third-party lender to diversify their risk. Some owners may desire to convert some of their advances/debt to additional equity in the company for long-term appreciation. Parties who have made low-interest AFR loans to the companies in the past may want to consider "refinancing" them with new AFR loans at the current historically low rates.

Employee loans: Some companies may loan employees money to purchase homes, cars, etc. While there are potential employment and legal issues that should be fully considered before making those loans, once the parties are comfortable with those arrangements, the current low AFRs offer the ability to provide a no-tax employee benefit by offering key employees bargain loan terms.

Trigger capital gains in 2012: With the scheduled increase in the long-term capital gains rate for individuals, including S corporation shareholders, LLC members, and partners, from 15% to 20% beginning in 2013, taxpayers may want to sell certain appreciated assets to secure a permanent tax savings. If the asset is publicly traded stock, the taxpayer can immediately repurchase the stock if he or she believes it may continue to appreciate, and the taxpayer will have an increased tax basis--thereby reducing future gain. Because, unlike individuals, corporations do not have a lower tax rate for capital gains, C corporation shareholders will only receive a benefit from the lower rate upon disposing of their shares (or from "qualified" dividend distributions--Sec. 1(h)(11)(B)).

Accelerate "qualified dividends" into 2012: When the Bush tax rates expire, the current 15% tax rate for dividends will increase to 39.6%. Therefore, to the extent taxpayers can control dividend distributions, they should consider accelerating "qualified" dividends to this year to retain substantially more of the after-tax amounts.

Accelerate income into 2012: With the maximum federal rate scheduled to increase to 39.6% from the current 35%, S corporation and LLC/partnership owners may want to recognize income in 2012 rather than wait a year. Taxpayers subject to the alternative minimum tax (AMT) in 2012 will likely be even more motivated to accelerate income at a 26% or 28% marginal rate that applies under the AMT.

Defer 2012 expenses: Similar to accelerating income, taxpayers anticipating higher 2013 rates may prefer to defer claiming certain tax deductions, including making elections to claim bonus depreciation/Sec. 179 expensing, etc. Again, taxpayers subject to AMT in 2012 will generally be even more motivated to defer expenses into 2013 when all tax rates may be higher.

Philanthropic and estate planning: Even though business valuations are generally low, the very low interest rates can enhance the charitable element of charitable remainder unitrusts (CRUTs), grantor retained annuity trusts (GRATs), and similar estate planning tools.

Gifting of business interests: With business values generally lower than in previous years, consideration should be given to transferring minority interests to family members. The $5 million estate/gift tax-free transfer exemption, coupled with current case law holding that lack of transferability/control requires values to be discounted, can allow for leveraging of gifting. Taxpayers wishing to preserve some of their lifetime exemption or transfer amounts in excess of the $5 million unified credit should consider selling the business interests at a discount and accepting a portion of the payment in the form of a low-interest note (discussed above).

2013 Medicare Contribution Tax on Investment Income, High Wages and SE Earnings

Medicare Contribution Tax on Unearned Income: Individuals with Modified Adjusted Gross Income (MAGI) over $200,000 ($250,00 if Married, filing Jointly; $125,00 if Married, filing separately) are subject to a 3.8% surtax (the Medicare Contribution tax) on their net investment income, up to the excess of MAGI over the threshold amount. Net investment income includes interest, dividends, royalties, rents, gross income from a trade or business involving passive activities and net gain from the dispositions of property other than most property held in a trade or business, reduced by deductions allocable to such income. The tax also applies to estates and trusts.

For 2012, this tax does not exist.

A recent Congressional Research Service (CRS) report describes the application of homes sales to the calculation of the 3.8% unearned income Medicare contribution tax scheduled to begin in 2013. The tax applies to single taxpayers with Modified Adjusted Gross Income (MAGI) greater than $200,000 ($250,000 for MFJ), and is computed by multiplying 3.8% by the lesser of net investment income, or the amount MAGI exceeds $200,000/$250,000. A home sale may be subject to the tax if (1) the taxpayer's MAGI exceeds the threshold, (2) sale of a principal residence results in capital gain greater than the home sale exclusion ($250,000 single/$500,000 MFJ), and/or (3) the sale of a non-principal residence results in capital gain.

Additional Medicare Tax on High Wages: The Medicare portion of the FICA tax on Employees is 2.35% for wages over $200,000 ($250,00 if Married, filing Jointly; $125,00 if Married, filing separately). THis additional 0.9% tax is computed on the combined wages of taxpayers filing a joint return.

For 2012, the Medicare portion of the FICA tax is 1.45% of all wages.

Additional Medicare Tax on High Self-Employment Income: The Medicare portion of the self-employment (SE) tax is 3.8% on self-employment income over $200,000 ($250,00 if Married, filing Jointly; $125,00 if Married, filing separately). The amount subject to the additional 0.9% tax is reduced by wages counted for FICA tax. This additional Medicare tax is not deductible for income or SE tax.

For 2012, the Medicare portion of the SE tax is 2.9% of all SE income, and 1/2 of the Medicare tax paid is deductible for income and SE tax computations.