JENNIFER A. JONES, CPA, LTD.

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Year-End Tax Planning: As we approach year-end, it's again time to focus on last-minute moves you can make to save taxes—both on your 2011 return and in future years. For some ideas to get you started, click here.

Ten Things to Keep in Mind for Your 2011 Tax Planning, click here

IRS Tax Tip 2011-23: Keeping Good Records: You may not be thinking about your tax return right now, but it is a great time to start planning for next year. Organized records not only make preparing your return easier, but may also remind you of relevant transactions, help you prepare a response if you receive an IRS notice, or substantiate items on your return if you are selected for an audit. This IRS Tax Tip helps guide you in what records to keep and how long you need to keep them. click here

Recovery of Erroneous Tax Refund: On their 2007 Form 1040, taxpayers reported taxable Social Security benefits of $20,441 on line 20b, but left line 20a for the gross amount of Social Security benefits blank. In processing the return, the IRS mistakenly concluded that taxpayers did not receive any Social Security benefits, had over-reported their income by $20,441, and issued a $3,077 refund check. In concluding that the "law is well settled that the making of an erroneous refund does not preclude the [IRS] from issuing a notice of deficiency to recover the refund," the Tax Court observed that the IRS, "confronted by millions of returns and an economy which repeatedly must be nourished by quick refunds, must first pay and then look." *Lawrence Willey* , TC Summ. Op. 2011-79 (Tax Ct.).

Independent Contractors: A top audit target of the IRS continues to be the proper classification of workers. An article in AIPB's August 2011 issue of *The General Ledger* and T*ax Notes Today* by Robert W. Wood, attorney, list the 10 most common mistakes businesses make when they classify workers as independent. Click here for the list of pitfalls.

Are Employer-Provided Cellphones Taxable to Employees? Under Notice 2011-72, IRS indicates when the value of an employer-provided cellphone will not be considered additional compensation to the employee. The cellphone use must be considered either a working fringe benefit or a de minimis fringe benefit. An employer is considered to provide an employee a cellphone primarily for business purposes as a working fringe benefit, if there are substantial reasons relating to the employer's business reasons, other than providing compensation to the employee, for providing the employee with a cellphone. For example, the employer's requirement that the employee be available to speak with clients at times when the employee is away from the office or outside the normal work day are possible business reasons. If the value of the personal use is so small as to make accounting for it unreasonable or administratively impracticable, then it is excludable as a de minimis fringe benefit, and is not reportable as compensation to the employee.

Signature Authority by Agent: An agent has authority to sign a tax return or claim a refund on a taxpayer's behalf under Reg. 1.6012-1(a)(5) when disease or injury prevent the taxpayer from signing, when the taxpayer is absent from the U.S. at least 60 days prior to the due date of the return, and upon written request to the district director for the internal revenue district where the taxpayer lives (or where principal place of business is located), if good cause exists. **This chief counsel advice notes that a return or refund claim signed and filed by an agent must be accompanied by a power of attorney authorizing the specific acts**. CCA 201129038 .

Doing Business in Another State? It's harder to tell than you may think. Most states don't offer companies clear guidance in this area. With state budgets strained, states are facing greater pressure to crack down as they struggle to close significant budget gaps. States are looking into businesses that have a presence in their state and are subject to state and local income and sales taxes. Companies have been found liable for state corporate tax "when the only connection to that state was that they had an employee telecommuting in that state."

In March 2010, for instance, the Tax Court of New Jersey ruled that a company whose main offices are in Maryland was "doing business" in New Jersey because an employee telecommutes from there.

2011 Cost-of-Living Limits

IRA Contribution Limit $5,000

IRA 50 & Over Catch-up Contribution $1,000

401(k) Deferral Limit $16,500

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 $245,000

Defined Contribution IRC Sec 415 limit $49,000

Compensation limit for SEP eligibility $550

IRC Section 179 $500,000

Estate Tax Exclusion $5,000,000

Gift Tax Annual Exclusion $13,000

Social Security Wage Base $106,800

2010 & Prior Years' Limits

2011 Standard Mileage Rates:

Business mileage rate **$0.51 thru 6/30/11**
$0.555 after 6/30/11

Medical & Moving mileage rate **$0.19**

Charitable mileage rate **$0.14/mile**

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The company, TeleBright Software Corp., is appealing the decision, arguing that having one employee in the state who develops software from home falls short of the statutory definition of "doing business." The company asserted that it doesn't solicit customers or make sales in New Jersey.

Just how much of a tax hit companies face depends on state rules. Some impose income tax based on an out-of-state company's sales in the jurisdiction. Others also take into account the company's payroll and property in the state. However they figure the bill, lots of states seem to be on the same page as New Jersey. In a survey issued in April, 35 states, the District of Columbia and New York City said an employee who telecommutes from a home in the state would create "nexus"—a connection that warrants imposing income tax on an out-of-state employer.

A potential solution has been offered by advisors: Have the telecommuting employee resign, form a C or S corporation and invoice the ex-employer for work. The former employer would have to pay the former employee more to cover new expenses and lost benefits. And, although it would be a challenge, states could still make a case for taxing the former employer.