

2010 Year-End Tax Planning for Individuals

As 2010 draws to a close, there is still time to reduce your 2010 tax bill and plan ahead for 2011. This letter highlights several potential tax-saving opportunities for you to consider. I would be happy to meet with you to discuss specific strategies.

As a general reminder, there are several ways in which you can file an income tax return: married filing jointly, head of household, single, and married filing separately. A husband and wife may elect to file one return reporting their combined income, computing the tax liability using the tax tables or rate schedules for "Married Persons Filing Jointly." If a married couple files separate returns, under certain situations they can amend and file jointly, but they cannot amend a jointly filed return and file separately.

A joint return may be filed even though one spouse has neither gross income nor deductions. If one spouse dies during the year, the surviving spouse may file a joint return for the year in which his or her spouse died. Certain married persons who do not elect to file a joint return may be entitled to use the lower head of household tax rates. Generally, in order to qualify as a head of household, you must not be a resident alien, you must satisfy certain marital status requirements, and you must maintain a household for a qualifying child or any other person who is your dependent, if you are entitled to a dependency deduction for the taxable year for such person.

Basic Numbers You Need To Know

Because many tax benefits are tied to or limited by adjusted gross income (AGI)—IRA deductions, for example—a key aspect of tax planning is to estimate both your 2010 and 2011 AGI. Also, when considering whether to accelerate or defer income or deductions, you should be aware of the impact this action may have on your AGI and your ability to maximize itemized deductions that are tied to AGI. Your 2009 tax return and your 2010 pay stubs and other income- and deduction-related materials are a good starting point for estimating your AGI.

Another important number is your "tax bracket," i.e., the rate at which your last dollar of income is taxed. The tax rates for 2010 are 10%, 15%, 25%, 28%, 31%, and 35%. Although tax brackets are indexed for inflation, if your income increases faster than the inflation adjustment, you may be pushed into a higher bracket. If so, your potential benefit from any tax-saving opportunity is increased (as is the cost of overlooking that opportunity). Note that for 2011, without legislative action, the brackets will revert back to pre-2001 levels (15%, 28%, 31%, 36% and 39.6%.) If this happens, the so-called "marriage penalty" comes back into play as the spread in the 15% bracket for married couples will no longer be twice the amount for single taxpayers. The President's proposals would only raise the highest two brackets for those earning more than \$250,000 (\$200,000 for single taxpayers). Given the real possibility of higher income tax brackets in 2011, tax planning takes on a great importance before the 2010 tax year ends.

IRA, Retirement Savings Rules for 2010

Tax-saving opportunities continue for retirement planning due to the availability of Roth IRAs, changes that make regular IRAs more attractive, and other retirement savings incentives. As discussed herein, a few more changes began in 2010.

Traditional IRAs: Individuals who are not active participants in an employer pension plan may make deductible contributions to an IRA. The annual deductible contribution limit for an IRA for 2010 is \$5,000. For 2010, a \$1,000 "catch-up" contribution is allowed for taxpayers age 50 or older by the close of the taxable year, making the total limit \$6,000 for these individuals. Individuals who are active participants in an employer pension plan also may make deductible contributions to an IRA, but their contributions are limited in amount depending on their AGI. For 2010, the AGI phase-out range for deductibility of IRA contributions is between \$56,000 and \$66,000 of modified AGI for single persons (including heads of households), and between \$89,000 and \$109,000 of modified AGI for married filing jointly. Above these ranges, no deduction is allowed.

In addition, an individual will not be considered an "active participant" in an employer plan simply because the individual's spouse is an active participant for part of a plan year. Thus, you may be able to take the full deduction for an IRA contribution regardless of whether your spouse is covered by a plan at work, subject to a phase-out if your

joint modified AGI is \$167,000 to \$177,000 for 2010. Above this range, no deduction is allowed.

Spousal IRA: If an individual files a joint return and has less compensation than his or her spouse, the IRA contribution is limited to the lesser of \$5,000 for 2010 plus age 50 catch-up contributions, or the total compensation of both spouses reduced by the other spouse's IRA contributions (traditional and Roth).

Roth IRA: This type of IRA permits nondeductible contributions of up to \$5,000 a year. Earnings grow tax-free, and distributions are tax-free provided no distributions are made until more than five years after the first contribution and the individual has reached age 59½. Distributions may be made earlier on account of the individual's disability or death. The maximum contribution is phased out in 2010 for persons with an AGI above certain amounts: \$167,000 to \$177,000 for married filing jointly, and \$105,000 to \$120,000 for single taxpayers (including heads of households); and between \$0 and \$10,000 for married filing separately who lived with the spouse during the year.

Roth IRA Conversion Rule: Funds in a traditional IRA (including SEPs and SIMPLE IRAs), § 401(a) qualified retirement plan, § 403(b) tax-sheltered annuity or § 457 government plan may be rolled over into a Roth IRA. Such a rollover, however, is treated as a taxable event, and you will pay tax on the amount converted. No penalties will apply if all the requirements for such a transfer are satisfied.

In past years, a taxpayer's AGI (whether married filing jointly or single) was limited to \$100,000 to make such a conversion and the taxpayer must not be a married individual filing a separate return. The AGI limitation does not apply to conversions from a Roth designated account in a § 401 or § 403(b) plan. Beginning in 2010, the \$100,000 income limit on Roth IRA conversions is repealed, and taxpayers will be able to make Roth IRA conversions without regard to their AGI. If you convert to a Roth IRA in 2010, you will have the option of spreading the income ratably over two taxable years (2011 and 2012). This opportunity is available only for conversions in 2010. For conversions in 2011, the tax will have to be paid in the year of conversion. Also, if you already made a conversion earlier this year, you have the option of undoing the conversion. This is a useful strategy if the investments have gone down in value so that if you were to do the conversion now, your taxes would be lower. This is a complicated calculation and we should meet to determine what your best options are.

401(k) Contribution: The § 401(k) elective deferral limit is \$16,500 for 2010. If your § 401(k) plan has been amended to allow for catch-up contributions for 2010 and you will be 50 years old by December 31, 2010, you may contribute an additional \$5,500 to your § 401(k) account, for a total maximum contribution of \$22,000 (\$16,500 in regular contributions plus \$5,500 in catch-up contributions).

SIMPLE Plan Contribution: The SIMPLE plan deferral limit is \$11,500 for 2010. If your SIMPLE plan has been amended to allow for catch-up contributions for 2010 and you will be 50 years old by December 31, 2010, you may contribute an additional \$2,500.

Catch-Up Contributions for Other Plans: If you will be 50 years old by December 31, 2010, you may contribute an additional \$5,500 to your § 403(b) plan, SEP or eligible § 457 government plan.

Saver's Credit: A nonrefundable tax credit is available based on the qualified retirement savings contributions to an employer plan made by an eligible individual. For 2010, only taxpayers filing joint returns with AGI of \$55,500 or less, head of household returns with AGI of \$41,625 or less, or single returns (or separate returns filed by married taxpayers) with AGI of \$27,750 or less, are eligible for the credit. The amount of the credit is equal to the applicable percentage (10% to 50%, based on filing status and AGI) of qualified retirement savings contributions up to \$2,000.

Required Minimum Distributions: Unlike 2009, when taxpayers were allowed to waive their required minimum distribution, for 2010, taxpayers must take their required minimum distribution from IRAs or defined contribution plans (§ 401(k) plans, § 403(a) and (b) annuity plans, and § 457(b) plans that are maintained by a governmental employer).

Maximize Retirement Savings: In many cases, employers will require you to set your 2011 retirement contribution levels before January 2011. You may want to increase your contribution to lower your AGI in order to take advantage of some of the tax breaks described above or to avoid future tax rate increases. In addition, maximizing your contribution is generally a good tax-saving move.

Deferring Income to 2011

If you expect your AGI to be higher in 2010 than in 2011, or if you anticipate being in the same or a higher tax bracket in 2010, you may benefit by deferring income into 2011. Deferring income will be advantageous so long as the deferral does not bump your income to the next bracket. Deferring income could be disadvantageous, however, if your deferred income is subject to § 409A, thus making the income includible in gross income and subject to additional tax. Some ways to defer income include:

Delay Billing: If you are self-employed and on the cash-basis, delay year-end billing to clients so that payments will not be received until 2011.

Interest and Dividends: Interest income earned on Treasury securities and bank certificates of deposit with maturities of one year or less is not includible in income until received. To defer interest income, consider buying short-term bonds or certificates that will not mature until next year. If you have control as to when dividends are paid, arrange to have them paid to you after the end of the year.

Accelerating Income into 2010

In limited circumstances, you may benefit by accelerating income into 2010. For example, you may anticipate being in a higher tax bracket in 2011, or perhaps you will need additional income in order to take advantage of an offsetting deduction or credit that will not be available to you in future tax years. Note, however, that accelerating income into 2010 will be disadvantageous if you expect to be in the same or lower tax bracket for 2011. In any event, before you decide to implement this strategy, we should "crunch the numbers."

If accelerating income will be beneficial, here are some ways to accomplish this:

Accelerate Collection of Accounts Receivable: If you are self-employed and report income and expenses on a cash basis, issue bills and attempt collection before the end of 2010. Also see if some of your clients or customers might be willing to pay for January 2011 goods or services in advance. Any income received using these steps will shift income from 2011 to 2010.

Year-End Bonuses: If your employer generally pays year-end bonuses after the end of the current year, ask to have your bonus paid to you before the beginning of 2011.

Retirement Plan Distributions: If you are over age 59½ and you participate in an employer retirement plan or have an IRA, consider making any taxable withdrawals before 2011.

You may also want to consider making a Roth IRA rollover distribution, as discussed above.

Deduction Planning

Individual Deductions

Deduction timing is also an important element of year-end tax planning. Deduction planning is complex, however, due to factors such as AGI levels and filing status. If you are a cash-method taxpayer, remember to keep the following in mind:

Deduction in Year Paid: An expense is only deductible in the year in which it is actually paid. Under this rule, if your tax rate is going to increase in 2011, it is a smart strategy to postpone deductions until 2011.

Payment by Check: Date checks before the end of the year and mail them before January 1, 2011.

Promise to Pay: A promise to pay or providing a note does not permit you to deduct the expense. But you can take a deduction if you pay with money borrowed from a third party. Hence, if you pay by credit card in 2010, you can take the deduction even though you won't pay your credit card bill until 2011.

AGI Limits: For 2010, the overall limitation on itemized deductions is terminated. However, without legislative action, for 2011, the reduction is reinstated with no reduction in the phaseout amount similar to what was in place in years 2006-2009. In addition, certain deductions may be claimed only if they exceed a percentage of AGI: 7.5% for medical expenses, 2% for miscellaneous itemized deductions, and 10% for casualty losses.

Standard Deduction Planning: Deduction planning is also affected by the standard deduction. For 2010 returns, the standard deduction is \$11,400 for married taxpayers filing jointly, \$5,700 for single taxpayers, \$8,400 for heads of households, and \$5,700 for married taxpayers filing separately. As you can see from the numbers, for 2010, the standard deduction for married taxpayers is twice the amount as that for single taxpayers. Unless Congress acts, in 2011, the spread between married and nonmarried taxpayers will change, as the spread will revert back to pre-2001 levels and not be twice as much as that for single taxpayers. This would bring back into play, the "marriage penalty." If your itemized deductions are relatively constant and are close to the standard deduction amount, you will obtain little or no benefit from itemizing your deductions each year. But simply taking the standard deduction each year means you lose the benefit of your itemized deductions. To maximize the benefits of both the standard deduction and itemized deductions, consider adjusting the timing of your deductible expenses so that they are higher in one year and lower in the following year. You can do this by paying in 2010 deductible expenses, such as mortgage interest due in January 2011. In 2009, taxpayers who did not itemize their deductions were able to deduct up to \$1,000 if filing jointly or up to \$500 for single taxpayers for real property taxes. This benefit was in the form of an additional standard deduction. Unless extended by Congress into 2010, this added standard deduction does not apply. In 2009, taxpayers who purchased an eligible motor vehicle and had an AGI below a threshold amount, could deduct the sales tax paid on the vehicle (up to a purchase price of \$49,500) as part of the standard deduction. Unless extended by Congress into 2010, this added standard deduction does not apply.

Medical Expenses: Medical expenses, including amounts paid as health insurance premiums, are deductible only to the extent that they exceed 7.5% of AGI. Consider bunching medical expenses into years when your AGI is lower.

State Taxes: If you anticipate a state income tax liability for 2010 and plan to make an estimated payment, consider making the payment before the end of 2010. Note that in 2009, taxpayers were able to elect to deduct as an itemized deduction state and local sales taxes instead of state and local income taxes. Unless extended by Congress into 2010, this extra deduction does not apply.

Charitable Contributions: Consider making your charitable contributions at the end of the year. This will give you use of the money during the year and simultaneously permit you to claim a deduction for that year. You can use a credit card to charge donations in 2010 even though you will not pay the bill until 2011. A mere pledge to make a donation is not deductible, however, unless it is paid by the end of the year. Note, however, for claimed donations of cars, boats and airplanes of more than \$500, the amount available as a deduction will significantly depend on what the charity does with the donated property, not just the fair market value of the donated property. If the organization sells the property without any significant intervening use or material improvement to the property, the amount of the charitable contribution deduction cannot exceed the gross proceeds received from the sale.

To avoid capital gains, you may want to consider giving appreciated property to charity.

Regarding charitable contributions please remember the following rules: (1) no deduction is allowed for charitable contributions of clothing and household items if such items are not in good used condition or better; (2) the IRS may deny a deduction for any item with minimal monetary value; and (3) the restrictions in (1) and (2) do not apply to the contribution of any single clothing or household item for which a deduction of \$500 or more is claimed if the taxpayer includes a qualified appraisal with his or her return. Charitable contributions of money, regardless of the amount, will be denied a deduction, unless the donor maintains a cancelled check, bank record, or receipt from the donee organization showing the name of the donee organization, and the date and amount of the contribution.

A special provision giving taxpayers the ability to distribute tax-free to charity up to \$100,000 from a traditional or Roth IRA maintained for an individual whose has reached age 70^{1/2} expired in 2009. If Congress acts on pending legislation, this provision could be extended into 2010.

Business Deductions

Self-Employed Health Insurance Premiums: Self-employed individuals are allowed to claim 100% of the amount paid during the taxable year for insurance that constitutes medical care for themselves, their spouses and dependents as an above-the-line deduction, without regard to the 7.5% of AGI floor. New for 2010, the deduction can be taken into account in computing self-employment taxes.

Equipment Purchases: If you are in business and purchase equipment, you may make a "Section 179 Election," which allows you to expense (i.e., currently deduct) otherwise depreciable business property. For 2010 and 2011, under a new law just enacted, you may elect to expense up to \$500,000 of equipment costs (with a phase-out for

purchases in excess of \$2,000,000) if the asset was placed in service during 2010. Former law had the numbers at \$250,000 for 2010 and \$25,000 for 2011. Therefore, between now and the end of the year, if you previously maxed out the old \$250,000 amount for 2010, you now have an additional \$250,000 you can invest in your business and deduct. Also, new for 2010 and 2011, certain real property can qualify for the expense deduction, but of the \$500,000 limitation, only \$250,000 can be attributed to qualified real property. In 2012, these dollar amounts will be reduced to \$25,000 and \$200,000 (subject to inflation adjustments).

In addition, careful timing of equipment purchases can result in favorable depreciation deductions in 2010. In general, under the "half-year convention," you may deduct six months worth of depreciation for equipment that is placed in service on or before the last day of the tax year. (If more than 40% of the cost of all personal property placed in service occurs during the last quarter of the year, however, a "mid-quarter convention" applies, which lowers your depreciation deduction.) A popular strategy in recent years is to purchase a vehicle for business purposes that exceeds the depreciation limits set by statute (i.e., a vehicle rated over 6,000 pounds). Doing so would not subject the purchase to the statutory dollar limit, \$3,060 for 2010; \$3,160 in the case of vans and trucks. Therefore, the vehicle would qualify for the full equipment expensing dollar amount. However, for SUVs (rated between 6,000 and 14,000 pounds gross vehicle weight) the expensing amount is limited to \$25,000. Note that new legislation enacted in September, revives the additional \$8,000 depreciation amount for qualified 50% bonus depreciation property. Such amount is added to the dollar amounts stated above.

NOL Carryback Period: If your business suffers net operating losses for 2010, you generally apply those losses against taxable income going back two tax years. Thus, for example, the loss could be used to reduce taxable income—and thus generate tax refunds—for tax years as far back as 2008. Certain "eligible losses" can be carried back three years; farming losses and qualified disaster losses (for losses arising in taxable years beginning after 2007 in connection with disasters declared after December 31, 2007) can be carried back five years.

Bonus Depreciation: Although originally not in effect for 2010, new legislation enacted in September, for 2010, taxpayers meeting certain criteria can claim a 50% bonus depreciation allowance. In order to claim the additional depreciation, the following criteria must be met: (1) the original use of the property must begin with the taxpayer after December 31, 2007, and before January 1, 2011; (2) the property must be acquired by the taxpayer in 2008, 2009 or 2010, but only if no written binding contract for the acquisition was in effect before January 1, 2008, or acquired by the taxpayer pursuant to a written binding contract entered into in 2008, 2009 or 2010; (3) the property must be placed in service before 2011 (or, in the case of long production period property (10 years or longer) or specified aircraft, January 1, 2012). Bonus depreciation is also allowed for machinery and equipment used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials and qualified disaster assistance property. Because bonus depreciation was just extended into 2010 by the new September law, you can take advantage of this for the remainder of 2010.

Education and Child Tax Benefits

Child Tax Credit: A tax credit of \$1,000 per qualifying child under the age of 17 is available on this year's return. In order to qualify for 2010, the taxpayer must be allowed a dependency deduction for the qualifying child. Another qualifying determination is that the qualifying child must be younger than you. The credit is phased out at a rate of \$50 for each \$1,000 (or fraction of \$1,000) of modified AGI exceeding the following amounts: \$110,000 for married filing jointly; \$55,000 for married filing separately; and \$75,000 for all other taxpayers. A portion of the credit may be refundable. For 2010, the threshold earned income level to determine refundability is \$3,000. It is important to be under the phaseouts for 2010 to maximize the available credit as the credit amount is scheduled to drop to \$500 per child in 2011, unless Congress extends the current amounts.

Credit for Adoption Expenses: For 2010, the adoption credit limitation is \$13,170 of aggregate expenditures for each child, except that the credit for an adoption of a child with special needs is deemed to be \$13,170 regardless of the amount of expenses. The credit ratably phases out for taxpayers whose income is between \$182,520 and \$222,520. New for 2010, the credit is refundable.

HOPE Credit and Lifetime Learning Credit: Significant changes were put in place for the HOPE credit in 2009, including a name change to the American Opportunity Tax Credit. These changes continue for 2010, but not 2011, unless extended by Congress. The maximum credit for 2010 is \$2,500 (100% on the first \$2,000, plus 25% of the next \$2,000) for qualified tuition and fees paid on behalf of a student (i.e., the taxpayer, the taxpayer's spouse, or a dependent) who is enrolled on at least a half-time basis. The credit is available for the first four years (rather than two as in past years) of the student's post-secondary education. For 2010, the credit is phased out at modified AGI levels between \$160,000 and \$180,000 for joint filers, and between \$80,000 and \$90,000 for other taxpayers. Forty

percent of the credit is refundable, which means that you can receive up to \$1,000 even if you owe no taxes. The term "qualified tuition and related expenses" has been expanded to include expenditures for "course materials" (books, supplies, and equipment needed for a course of study whether or not the materials are purchased from the educational institution as a condition of enrollment or attendance). One way to take advantage of the credit for 2010 is to prepay the spring 2011's tuition. In addition, if your child's books for the spring semester are known, those can be bought and the costs qualify for the credit.

The Lifetime Learning credit maximum in 2010 is \$2,000 (20% of qualified tuition and fees up to \$10,000). A student need not be enrolled on at least a half-time basis so long as he or she is taking post-secondary classes to acquire or improve job skills. As with the HOPE (American Opportunity Tax Credit in 2010) credit, eligible students include the taxpayer, the taxpayer's spouse, or a dependent. For 2010, the Lifetime Learning credit are phased out at modified AGI levels between \$100,000 and \$120,000 for joint filers, and between \$50,000 and \$60,000 for single taxpayers.

Coverdell Education Savings Account: For 2010, the aggregate annual contribution limit to a Coverdell education savings account is \$2,000 per designated beneficiary of the account. This limit is phased out for individual contributors with modified AGI between \$95,000 and \$110,000 and joint filers with modified AGI between \$190,000 and \$220,000. The contributions to the account are nondeductible but the earnings grow tax-free. Unless extended, the 2011 contribution limit will drop to \$500. In addition, accounts will not be allowed to be used to pay for primary and secondary education.

Student Loan Interest: You may be eligible for an above-the-line deduction for student loan interest paid on any "qualified education loan." The maximum deduction is \$2,500. The deduction for 2010 is phased out at a modified AGI level between \$120,000 and \$150,000 for joint filers, and between \$60,000 and \$75,000 for individual taxpayers.

Kiddie Tax: For 2010, the kiddie tax applies to: (1) children under 18; (2) 18-year old children who have unearned income in excess of the threshold amount, do not file a joint return and who have earned income, if any, that does not exceed one-half of the amount of the child's support; and (3) children between the ages of 19 and 23 and if, in addition to the above rules, they are full-time students. For 2010, the kiddie tax threshold amount is \$1,900.

Energy Incentives

Alternative Motor Vehicle Credit: For 2010, a credit is available for purchases of motor vehicles powered by certain advanced technology. The dollar amount of the credit depends on fuel savings and weight of the vehicle. The most popular vehicles subject to the credit are hybrids. However, when a particular manufacturer sells in the United States its 60,000th of the particular hybrid, a phaseout period kicks in. The phaseout will reduce the credit from fully available to nothing being available. Due to this limitation, many popular hybrids have been phased out from the credit. In addition, the credit expired at the end of 2009 for hybrids weighing more than 8,500 pounds. Credits are also available for lean-burn technology vehicles (subject to the same phaseout), qualified fuel cell motor vehicles, qualified alternative fuel motor vehicles, and qualified plug-in electric-drive motor vehicles. Unless extended, credits for hybrids, lean-burn technology cars and alternative fuel vehicles expire at the end of 2010, regardless of whether the 60,000 phaseout limit is reached. If you have an interest in purchasing a hybrid or alternative fuel vehicle before the end of 2010, please contact me and I can calculate the allowable credit. The amount of the credit could affect your decision on which vehicle to purchase.

Residential Energy Efficient Property Credit: Until 2016, tax incentives are available to taxpayers who install certain energy efficient property, such as photovoltaic panels, solar water heating property, fuel cell property, small wind energy property and geothermal heat pumps. A credit is available for the expenditures incurred for such property up to a specific percentage, except that a cap applies for fuel cell property. The property purchased cannot be used to heat swimming pools or hot tubs. If you have made improvements to your home or plan to by the end of 2010, please contact me to discuss the amount of the credit you may qualify for.

Nonbusiness Energy Property Credit: After expiring in 2007, the nonbusiness energy property credit was re-enacted for 2009 and 2010 only. Property qualifying for the credit includes windows (including skylights), exterior doors, insulation, metal roof, advanced main air circulating fans, natural gas, propane, or oil furnace or hot water boilers, and other energy efficient building property that meets certain energy standards. The credit is 30% of the cost of the improvement(s) up to a maximum credit of \$1,500 (therefore, if you took any credit in 2009, your total for both years cannot exceed \$1,500). The property must be installed by the end of the year to qualify.

Business Credits

Small Employer Pension Plan Startup Cost Credit: For 2010, certain small business employers that did not have a pension plan for the preceding three years may claim a nonrefundable income tax credit for expenses of establishing and administering a new retirement plan for employees. The credit applies to 50% of the first \$1,000 in qualified administrative and retirement-education expenses for each of the first three plan years.

Employer-Provided Child Care Credit: For 2010, employers may claim a credit of up to \$150,000 for supporting employee child care or child care resource and referral services. The credit is allowed for a percentage of "qualified child care expenditures" including for property to be used as part of a qualified child care facility, for operating costs of a qualified child care facility and for resource and referral expenditures. Unless extended by Congress, this credit is unavailable for 2011.

Work Opportunity Credit: The work opportunity credit is an incentive provided to employers who hire individuals in groups whose members historically have had difficulty obtaining employment. Unemployed veterans and disconnected youth hired in 2010 qualify as a targeted group in addition to the existing targeted groups. This gives your business an expanded opportunity to employ new workers and be eligible for a tax credit against the wages paid. Wages do not include amounts paid to certain individuals hired in 2010 during the one-year period beginning on the hiring date that qualify for payroll forgiveness under Code § 3111(d).

Credit for Employee Health Insurance Expenses of Small Employers: For tax years beginning after 2009, eligible small employers are allowed a credit for certain expenditures to provide health insurance coverage for its employees. Generally, employers with 10 or fewer full-time equivalent employees (FTEs) and an average annual per-employee wage of \$25,000 or less are eligible for the full credit. The credit amount begins to phase out for employers with either 11 FTEs or an average annual per-employee wage of more than \$25,000. The credit is phased out completely for employers with 25 or more FTEs or an average annual per-employee wage of \$50,000 or more. The credit amount is 35% of certain contributions made to purchase health insurance.

Business Credit for Retention of Certain Newly-Hired Individuals in 2010: For qualified employers in tax years ending after March 18, 2010, the current year general business credit is increased for each retained worker by the lesser of: (a) \$1,000, or (b) 6.2% of the wages paid to the retained worker during the 52 consecutive week period for a "retained worker."

Carryback of Business Credits: Pursuant to a new law enacted in September, the credit carryback period for eligible small business credits is extended from one to five years. Eligible small business credits are defined as the sum of the general business credits determined for the taxable year with respect to an eligible small business. An eligible small business is, with respect to any taxable year, a corporation, the stock of which is not publicly traded, or a partnership which meets the gross receipts test of § 448(c) (substituting \$50 million for \$5 million each place it appears). In the case of a sole proprietorship, the gross receipts test is applied as if it were a corporation. Credits determined with respect to a partnership or S corporation are not treated as eligible small business credits by a partner or shareholder unless the partner or shareholder meets the gross receipts test for the taxable year in which the credits are treated as current year business credits.

Investment Planning

The following rules apply for most capital assets in 2010:

- Capital gains on property held one year or less are taxed at an individual's ordinary income tax rate.
- Capital gains on property held for more than one year are taxed at a maximum rate of 15% (0% if an individual is in the 10% or 15% marginal tax bracket).

Note that if Congress does not act to extend the reduced capital gains rates, beginning in 2011, the rates will revert back to pre-2001 levels, or up to a maximum of 20% for all taxpayers.

Timing of Sales: You may want to time the sale of assets so as to have offsetting capital losses and gains. Capital losses may be fully deducted against capital gains and also may offset up to \$3,000 of ordinary income (\$1,500 for married filing separately). In general, when you take losses, you must first match your long-term losses against your long-term gains, and short-term losses against short-term gains. If there are any remaining losses, you may use them to offset any remaining long-term or short-term gains, or up to \$3,000 (or \$1,500) of ordinary income. When

and whether to recognize such losses should be analyzed in light of the possible future changes in the capital gains rates applicable to your specific investments.

Dividends: Qualifying dividends received in 2010 are subject to rates similar to the capital gains rates. Therefore, qualifying dividends are taxed at a maximum rate of 15%. Qualifying dividends include dividends received from domestic and certain foreign corporations. Note that if Congress does not act to extend the reduced dividend rates, beginning in 2011, the rates will revert back to pre-2001 levels, that is taxed at a taxpayer's ordinary income rate, up to a maximum of 39.6%. The President has proposed to keep qualifying dividend income taxed at the same rate as capital gains, which could increase to 20% in 2011.

Purchasing a Home: If you purchased a home before April 30, 2010 (and close before September 30), you may be eligible for up to an \$8,000 credit (\$4,000 if married filing separately) if you are a qualified first-time homebuyer, or for taxpayers who have lived in their home for any five-consecutive year period during the eight-year period ending on the date of purchase of the subsequent residence a credit up to \$6,500 (\$3,250 if married filing separately). One qualification is that your modified adjusted gross income must be less than \$145,000 (\$245,000 if married filing jointly). Also, no credit is available if the purchase price of the home exceeds \$800,000. Even if the qualifying purchase took place in before April 30, 2010, the taxpayer can elect the purchase to be treated as happening on December 31, 2009, to speed up payment of the credit via a tax refund on an amended 2009 return.

Social Security

Depending on the recipient's modified AGI and the amount of Social Security benefits, a percentage — up to 85% — of Social Security benefits may be taxed. To reduce that percentage, it may be beneficial to defer receipt of other retirement income. One way to do so is to elect to receive a lump sum distribution from a retirement plan and to roll-over that distribution into an IRA. Alternatively, it may be beneficial to accelerate income so as to reduce the percentage of your Social Security taxed in 2011 and later years.

Other Tax Planning Opportunities

We also can discuss the potential benefits to you or your family members of other planning options available for 2010, including § 529 qualified tuition programs.

Alternative Minimum Tax

Without another legislative amendment in 2010, the alternative minimum tax exemption amounts will not be high enough to spare millions of taxpayers from the AMT effect. The exemption amounts in place for 2010 are: (1) \$45,000 for married individuals filing jointly and for surviving spouses; (2) \$33,750 for unmarried individuals other than surviving spouses; and (3) \$22,500 for married individuals filing a separate return. Also, for 2010, nonrefundable personal credits cannot offset an individual's regular and alternative minimum tax.

Some of the standard year-end planning ideas will not reduce tax liability if you are subject to the alternative minimum tax (AMT) because different rules apply. Because of the complexity of the AMT, it would be wise for us to analyze your AMT exposure.

Extensions and Late Payment Penalties

Please remember an extension extends your time to file and avoid late filing penalties but **NOT** the late payment penalty and interest charges. These accrue from April 15 until you pay the tax due for federal and state tax returns.

This information is current through the law in effect after the enactment of the Small Business Jobs Act of 2010, signed on September 27, 2010. There may be additional changes for 2010 so please contact us with any questions for your tax planning.

If you have any questions, please do not hesitate to call. I would be happy to meet with you at your convenience to discuss the strategies outlined above. There is still time to implement these strategies to minimize your 2010 tax liability.

Sincerely,

A handwritten signature in black ink that reads "Ed Lloyd". The signature is written in a cursive style with a large, stylized "E" and "L".

Ed Lloyd CPA, PFS, CTC