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NYPMIFA Provides More Flexibility

- Adam Unangst

On September 17th, 2010, New York State enacted the New York Prudent Management of Institutional Funds Act (NYPMIFA), an adaption of the Uniform Prudent Management of Institutional Funds Act (UPMIFA). NYPMIFA replaces and supplements the New York Management of Institutional Funds Act (NYMIFA), which governed how New York not-for-profit organizations managed, invested and spent their endowment funds. The new law is more complex and provides more specific guidelines for investment management and endowment spending.

Under the prior law, organizations were permitted to spend the income earned by an endowment fund. They were required to preserve the endowment fund's historical dollar value. NYPMIFA provides more flexibility than NYMIFA. It eliminates the historic dollar value floor on spending. Under NYPMIFA, organizations are allowed to appropriate endowment funds whose market has dropped below historic dollar value, if it is deemed prudent. When deciding whether to appropriate from an endowment fund the organization must consider eight factors, which must be documented by the board.

Under NYPMIFA, organizations have the authority to delegate management and investment functions by board of directors to outside professionals. The board of directors must be prudent in selecting an agent and should select one that is independent, to alleviate conflicts of interest. The outside agent must comply with the organization and exercise reasonable care, skill, and caution. NYPMIFA deems that the contract between the organization and outside agent may be terminated at any time, without penalty, upon no more than 60 days notice.

NYPMIFA requires organizations to send a written notice to all donors that can be found with reasonable efforts, is living or conducting business and provided endowment gifts before September 17, 2010. The notice must give the donor the option to accept or reject the appropriation of their gift instrument below it's historical dollar value. If the donor does not reply within 90 days, the organization may spend as much of the gift instrument as may be prudent.

NYPMIFA deems that if a donor places a limitation on a gift instrument, the organization must comply with the donor's request. The Act provides guidelines to ensure organizations do not excessively spend endowment funds. It is presumed to be imprudent if an organization appropriates more than 7% of the fund's fair market value in any year.

NYPMIFA allows organizations to lift and modify donor-imposed restrictions on endowment funds less than $100,000 and more than 20 years old. In such cases, the organization must provide a written notice to the Attorney General explaining why the modification or restriction should be made. If the Attorney General fails to respond within 90 days, the modification or release is granted.

For more information on NYPMIFA please visit
www.charitiesnys.com/nypmifa_new.jsp.

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CERTIFIED PUBLIC ACCOUNTANTS
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News Briefs

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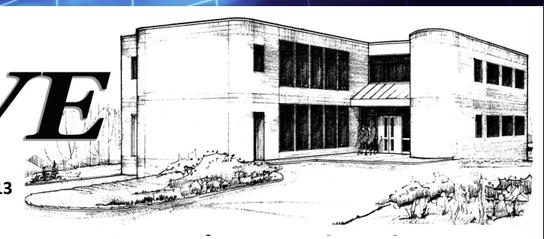
Sciarabba Walker and the United Way are committed to our community!

Inside this Edition:

ON THE MOVE



Our New Address Starting Nov. 25, 2013
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Home Office Deduction

Introducing A Simplified Option

- Ethan Chaffee

In an attempt to reduce the complexity in calculating the home office deduction, the IRS announced a new simplified option, also called the safe harbor method, on January 15, 2013. The simplified option does not change the criteria to claim the home office deduction; however, it may reduce administrative, recordkeeping, and compliance burdens involved in claiming the deduction. Taxpayers may use the simplified option beginning in tax year 2013 (returns filed in 2014).

Overview

The standard deduction for the simplified option is $5 per square foot of the home's space used exclusively for business at a maximum of 300 square feet so the deduction is capped at $1500. The deduction is limited to the net income derived from the business use of the home. A carryover of excess deductions is not allowed using this method.

Home-related itemized deductions (mortgage interest and real estate taxes) are claimed in full on Schedule A. However, no depreciation deduction or later recapture upon sale of the home is allowed for the years the simplified option is used.

Considerations

Taxpayers may choose to use either method for any taxable year simply by using that method on that taxpayer's federal income tax return for the taxable year. Once the method has been chosen, the taxpayer cannot later change to the other method for that same tax year. If the taxpayer elects to use the simplified method one year and uses the regular method the subsequent year, the taxpayer must calculate the subsequent year depreciation deduction. Taxpayers using the simplified option will not file Form 8829, but a different, less detailed form.

It's important to remember this simplified option has the same criteria as the regular method for taxpayers who qualify to claim a home office deduction. Its purpose is only to simplify the calculation and recordkeeping requirements of the deduction.

If you have questions about the home office deduction, please call our office.

Business Identity Theft

What you need to know - Michelle Buchanan

Over $8 billion is lost or stolen from small businesses every year due to business identity theft, according to the FBI. Business identity theft occurs when an individual gains information about a business and use it in a fraudulent manner. Various types of business identity theft include but are not limited to obtaining new credit accounts under the business's name, fraudulent business filing, physical address mirroring, virtual services and technology, use of owner's identity, manipulation of business records, and cybercrime.

Five Federal Trade Commission Principles can be employed for your business and client's data security:

Take Stock: Know and understand all personal information your business has, what records it obtains from clients, and how data moves through the business. It is important to note who has or could potentially have access to this information. Have a complete picture of who sends sensitive information (social security numbers, credit card numbers, etc.) to the business, who receives it, what kind of information is sent, where it is stored, and who has access to it.

Scale Down: Ensure your business is only keeping necessary information, it is recommended that you do not collect excess personal information. Have a written records retention policy to identify what information should be kept, how it should be stored, for how long, and how to dispose of it.

Lock It: Keep personal data secure. A secure data plan has four key elements: physical security, electronic security, employee training, and security practices of contractors and service providers. Keep paper information securely locked in a filing cabinet, have general network security in place (i.e. effective password management), and train employees for detection of security breaches.

Pitch It: Securely destroy sensitive information by having shredders available. Properly erase data stored on computers/portable devices prior to disposal.

Plan Ahead: Create a plan to respond to any security issue that might arise.

If your business should fall victim to identity theft there are important steps that must be taken:

Step 1: Contact the fraud department of your business's financial institution to close existing accounts and reopen them with new cards, checks, and online banking credentials. Wire transfers and ACH transactions can happen quickly, therefore, it is important to stop activity on the account(s) as soon as possible.

Step 2: Contact the credit card companies your business has accounts with to alert them of the affected account(s).

Step 3: Contact check verification companies to prevent your business from being incorrectly included in their database. These companies include ChexSystems, CrossCheck, Equifax, TeleCheck (First Data), SCAN, and International Check Services.

Step 4: Contact your local law enforcement to report the identity theft and an investigation will begin. At this time, you will be provided with a case number, provide a copy to your financial institution(s) and creditor(s). If your business's records were altered or a fraudulent company was filed, you will need to contact the New York State Department of State.

Step 5: Contact each lender, creditor, or other organization that have accounts that have been set up fraudulently. Have every aspect of reporting the business identity theft in writing; follow up with a written correspondence recapping the conversation and all information discussed.

Step 6: Obtain credit reports from credit bureaus to check for accuracy and suspicious activity. Credit reports can be obtained through Dun & Bradstreet, Equifax, Experian and TransUnion and it is recommended you receive a credit report from each of these companies.

Step 7: Check and verify the owner's credit report to determine if identity theft was committed against the owner as well. Owner information is largely connected with the business and is at risk of being stolen when identity theft of the business has occurred.

Some tips for the process are to hire an attorney, stay organized, and keep detailed records of all calls and conversations. Send all correspondence via certified mail with return receipt requests to make sure parties are receiving the information. Lastly, obtain a letter of clearance and keep this document and other records indefinitely, even after the case is finished.

Business identity theft is becoming a more common issue. For your security, implement preventative procedures to protect your business and customers. If your business becomes a victim of identity theft, act quickly to reduce the loss your business may suffer.

For more information go to **www.businessidtheft.org** and **www.business.ftc.gov.**

2013 Gift Tax Annual Exclusion:

For 2013, you can gift up to $14,000 per recipient free of gift tax. Married couples can consent to split a gift of up to $28,000 per recipient provided they are US residents and they file a gift tax return to consent to the split.

2013 YEAR-END TAX PLANNING

In 2013, numerous changes produced new tax planning opportunities and challenges for year-end tax planning strategies. These changes came from the American Taxpayer Relief Act of 2012, the Affordable Care Act, the Supreme Court's decision on same-sex marriage, and other new IRS rules.

INDIVIDUALS

Tax Rates: Bush-era tax cuts for lower and middle income taxpayers were permanently extended, but the 39.6% tax bracket is back for higher income individuals. Tax rates for individuals in 2013 and future years are 10, 15, 25, 28, 33, 35, and 39.6%. For 2013, starting income levels for the 39.6% tax bracket are $450,000 for married taxpayers filing jointly, $225,000 for married taxpayers filing separately, $400,000 for single taxpayers, and $425,000 for heads of households.

Capital Gains/Dividends: Starting in 2013, the top tax rate for capital gains and dividends increased from 15% to 20%, the 20% rate only applies to higher-income taxpayers who are subject to the 39.6% income tax rate. The rate is 0% for taxpayers in the 10% and 15% income brackets, and 15% for those in the 25, 28, 33, and 35% brackets. Taxpayers should avoid spikes in income at the end of the year that could push income into either the 39.6% bracket or the 20% capital gains bracket.

Surtax on Net Investment Income (NII): The Affordable Care Act introduced the NII surtax, effective starting in 2013. Higher-income taxpayers (individuals, estates, and trusts) may be liable for the 3.8% surtax on the lesser of (1) Net investment income for the tax year, or (2) The excess, if any, of modified adjusted gross income (MAGI) over the threshold amount. The thresholds for 2013 are $250,000 for married taxpayers filing jointly, $125,000 for married taxpayers filing separately, $200,000 for single and head of household taxpayers. "One-time" increases in income, such as Roth IRA conversions and sales of large assets should be carefully planned. It is important to note that net investment income also includes passive income from businesses and rental properties.

Additional Medicare Tax: The Affordable Care Act also increased Medicare tax by .9% on wages and self-employment income in excess of certain higher-income threshold amounts; $250,000 for married filing jointly, $125,000 for married taxpayers filing separately, and $200,000 for single and head of household taxpayers. Employers are required to withhold the additional tax on employee annual wages in excess of $200,000, without regard to filing status or other compensation. Individuals receiving wages from multiple employers or who expect total wages to exceed threshold amounts should consider increasing their withholding or making estimated payments.

Itemized Deduction Limitation and Personal Exemption Phase-Out: The itemized deduction limits and personal exemption phase-out for high income individuals has been revived. 2013 income thresholds for those affected are $300,000 for married taxpayers filing jointly, $150,000 for married taxpayers filing separately, $250,000 for single taxpayers, and $275,000 for heads of households.

Medical Expense Deduction: Starting in 2013, the threshold for deducting medical expenses as an itemized deduction increased from 7.5% to 10%. Taxpayers age 65 or older may continue to apply the 7.5% threshold through 2016.

Popular Sun-setting "Extenders": Certain tax incentives are scheduled to expire after 2013 if Congress does not extend them. Two popular extenders set to expire are the tax-free IRA distributions to charity up to $100,000 for individuals age $70^1/_2$ and the residential energy property credit. Taxpayers should consider taking advantage of these tax benefits in 2013, as they may not be available in future years.

Same-Sex Marriage: On June 26, 2013, the U.S. Supreme Court held that Section 3 of the Defense of Marriage Act (DOMA) was unconstitutional. Thereafter, the IRS announced a general rule recognizing same-sex marriages for federal tax purposes, including gift and estate taxes. The ruling states that same-sex couples who are legally married in a state that recognizes their marriage are considered married for federal tax purposes, regardless of whether they reside in a state that recognizes the marriage. As a result, for 2013 and future years, legally married same-sex couples must use the filing status of married filing jointly or married filing separately. Same-sex couples may choose to amend tax returns from prior years for which the period to amend has not expired, but they are not required to do so.

Estate and Gift Taxes: For 2013 the annual gift tax exclusion is $14,000 per donee. There is no limit to the number of donees. Spouses may elect to split their gifts to each donee, which effectively raises the limit to $28,000 per donee. Gifts between spouses are always tax-free unless one spouse is not a U.S. citizen (in which case the limit is $143,000 for 2013). The estate tax law is permanently set with a maximum federal estate and gift tax rate of 40%. The inflation-adjusted lifetime exclusion for 2013 is $5,250,000 for gifts made and estates of decedents dying in 2013.

BUSINESSES

Section 179 and Bonus Depreciation: Taxpayers should take advantage of both the Section 179 and bonus depreciation benefits while they are still available in 2013. The Section 179 annual deduction limit for qualifying trade or business property (new or used) is $500,000 for 2013, with an overall investment limitation of $2 million. Off-the-shelf computer software and certain real property improvements may also qualify as Section 179 property for 2013. The Section 179 deduction limit is scheduled to drop to $25,000 for 2014 and the investment limitation will decrease to $200,000, unless extended by Congress. The bonus depreciation allowance is 50 percent for 2013 for qualifying property. Qualifying property includes new, tangible property that is depreciable under MACRS with a recovery period of 20 years or less, including purchased computer software and certain leasehold improvements. Bonus depreciation is set to expire in 2014.

15-Year Recovery for Leasehold/Retail Improvements/Restaurant Property: The 15-year recovery period for qualified leasehold improvements, qualified retail improvements, and qualified restaurant property applies to property placed in service before January 1, 2014.

Final Repair/Capitalization Rules: The IRS released final regulations in September of 2013 regarding the treatment of payments to acquire, produce or improve tangible property. The new rules are effective January 1, 2014 and explain when a taxpayer must capitalize costs and when they can deduct as a repair.

Research Tax Credit: The credit for increases in business-related qualified research expenditures is set to expire on December 31, 2013. It is expected that Congress will extend this credit 1-2 years.

The above is a review of only some of the many changes that may affect year end planning for 2013. There may be other considerations, such as business and individual mandates related to health insurance under the Affordable Care Act, and traditional income and deductions deferral and acceleration strategies, which may apply to you.

Please contact our office to schedule an appointment if you would like to discuss your 2013 year-end tax planning or review your 2013 estimated tax payments.