



**Every (Practical) Thing Business
Owners Should Know About
Taxes**

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Part I: Eight (8) Tax Concepts for the Closely-Held Business

Introduction

- Closely-Held Businesses have different tax rules than individuals
 - Individual expenses are not deductible
 - Business expenses generally are deductible
- Knowing the rules empowers the business owner to make tax saving decisions



Tax Concept 1: Business Meals, Entertainment and Travel Expenses

- Meal Expenses
 - Generally, all business meals are subject to a special rule,
 - I.e., only 50% of the meal expense is deductible.
- Entertainment Expenses
- Accountable vs. Non Accountable Travel



Tax Concept 2: Deducting Listed Property

The IRS defines “listed” property as:

- any passenger automobile or
- any other property used as a means of transportation,
- computer or peripheral equipment,
- property used for purposes of entertainment,
- recreation, or
- amusement, and
- any cellular telephone.



Tax Concept 3: Employee vs. Independent Contractor

- Employees are generally workers who follow instruction and are on-site.
 - Line workers
 - Front counter sales

- Independent Contractors usually decide their own mode of work and may be off-site.
 - Transportation workers
 - Traveling sales people



Tax Concept 4: Cash and Non-Cash Payments to Employees

- Bonuses
- Gifts
- Deferred Compensation
- Vacation Pay
- Miscellaneous



Tax Concept 5: Employee Benefit Programs

1. Individual Life Insurance
2. Group Term Life Insurance
3. Medical Insurance
4. Cafeteria Plans**
5. Educational Assistance

** Patient Protection and Affordable Care Act, Section 9022

- For tax years beginning after December 31, 2010, small employers defined as averaging 100 or fewer employees during the past 2 years may provide employees with a “simple cafeteria plan.”
- Employer is provided with a safe harbor from the
 - nondiscrimination requirements for cafeteria plans
 - and from the nondiscrimination requirements for specified qualified benefits offered under a cafeteria plan,



Tax Concept 6: Deducting Rent and/or Lease Payments

- Rent
- Lease or purchase
- Improvements
- Capitalizing Lease Expenses



Tax Concept 7: Constructive Dividends

- Owners of closely-held corporations typically view their corporation as a personal possession and do not really appreciate the concept of the corporate structure.
- The withdrawal of cash or other properties from the corporation that is not properly documented is reclassified by the IRS as a “constructive dividend” and is taxable to the recipient.



Tax Concept 8: Special Depreciation

- Bonus Depreciation
 - New Equipment Only
 - No investment limit phase out
 - 100% (Sept 8, 2010 – Dec 31, 2011)
 - 50% (Jan 1, 2012 – Dec 31, 2012)
- Section 179
 - New and Used Equipment
 - 2011 Limit of \$500,000
 - Phase Out starts at \$2,000,000 of investment
 - Phase Out ends at \$2,500,000 of investment



Part II: How Changes in Tax Laws are Affecting the Business Owner



Manufacturing Deduction (Internal Revenue Code, Section 199)

- Passed in 2004
- 9% of income from qualified production activities for 2010 and thereafter
- Many companies traditionally not considered manufacturer's qualify for deduction.
- Can amend previous year's tax returns.



Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act

Individual Income Tax Rates

- Two year extension of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA)
- Rates remain 10, 15, 25, 28, 33, and 35% through December 31, 2012



Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act

Capital Gains and Dividends Tax

- Extends 15% (zero percent for 10 and 15% tax bracket taxpayers) Capital Gains and Dividends Rates until December 31, 2012
- January 1, 2013, capital gains tax rates go to 20 percent / dividends at ordinary income.



Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act

Payroll Tax Cut

- Reduces employee share of OASDI from 6.2% to 4.2% in 2011, for up to wages of \$106,800
- Is intended to replace the Making Work Pay Act, which has expired.



Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act

- Gift Tax is reunified with estate tax
 - \$5,000,000 lifetime exclusion
 - 35% rate
- Generation Skipping Transfer Tax (GST)
 - \$5,000,000 exclusion 2011-2012
 - 35% rate



Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act

Federal Estate Tax	State Estate Tax Exemptions (sampling of states)
<ul style="list-style-type: none">Was in "repealed status" during 2010	Connecticut \$2,000,000
<ul style="list-style-type: none">Would have reverted to \$1,000,000 in 2011	D.C. \$1,000,000
<ul style="list-style-type: none">2010 Tax Relief Act - \$5,000,000* / Maximum rate at 35%	Hawaii \$3,500,000
	Illinois \$2,000,000
	Maine \$1,000,000
	Maryland \$1,000,000
	New Jersey \$675,000

*portable amount - estate planning still necessary due to going concern status, state estate tax exemptions, necessary control, etcetera.



Other - Case Law

- Series Limited Liability Company is gaining IRS acceptance.
- Allows those in some states to set up "series" to avoid liability.
- Delaware, Illinois, Iowa, Nevada, Oklahoma, Tennessee, Texas, Utah, Wisconsin currently have Series LLC available.



Other – Revenue Procedure

- Many Qualified Intermediaries (QI) have gone into receivership or bankruptcy
- Lead to funds being withheld
- Many Like Kind Exchanges have failed
- IRS made Rev. Proc. 2010-14 as a safe harbor
- Gain will not be recognized if the failed exchange is due to QI receivership or bankruptcy.



Conclusion

- Knowledge of tax law empowers the business owner.
- Changes usually occur at least once per year.
- Knowing the tax law and the changes that occur allow the business owner to save money.

