

ANSPACH FINANCIAL GROUP

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SUMMER NEWSLETTER

JUNE, 2010

Must All Good Things Come To An End?

The favorable capital gains tax rates that we've enjoyed in recent years are scheduled to end with the 2010 tax year. For tax years 2008 through 2010, the tax rate on qualified dividends and long-term capital gains is 0% for those in the 10% and 15% income tax brackets, and a maximum capital gains tax rate of 15% applies to those whose taxable income is taxed in brackets above 15%.

Absent any Congressional action, the rates will reset at the beginning of 2011 to those in effect before 2003. This means that most taxpayers will be paying capital gains tax of 20% on the sale of investments held for a year or longer. While a 5% increase in the maximum capital gains tax rate may not sound that significant, there is a considerable portion of taxpayers who are currently not paying any taxes on their capital gains, but who will potentially be paying 20% on similar gains in 2011. Many more will feel the impact of losing the preferential tax treatment of "qualified" dividends if we revert to the prior taxation of corporate dividends at "ordinary" Income tax rates.

It's possible that Congress will, once again, extend the current favorable rates into another tax year, or enact entirely new rules to apply to the sale of capital assets. The worst case scenario is that tax rates will increase. If you are planning to sell valuable assets in the near future, you might want to consider accelerating the sale into the 2010 tax year, or at least carefully assess the potential risks of waiting to sell in a year when tax rates could be significantly greater than today.

Advocating for Taxpayers in Washington, DC

On April 28th, Anspach Financial Group partners, Jackie and Gary, joined 48 fellow members of the National Association of Enrolled Agents for a day of visits to the offices of Senators and Congresspersons on Capitol Hill. The primary objective of the visit was to advocate for more permanency in the ever-changing landscape of tax law. While we have always adjusted to legislative changes to provide our clients with the best tax and planning advice, the lack of permanency in the tax law is increasingly inhibiting our ability to do just that.

The past decade has been notable for the enactment of many temporary tax laws with specific expiration dates. Also notable has been the Congressional inclination to temporarily extend certain laws beyond their "sunset" dates rather than making permanent legislation. Needless to say, it is very difficult (if not impossible) to provide realistic tax planning under the cloud of such uncertainty. There are numerous provisions that are due to expire at the end of this year, and to date, there is little indication of how Congress plans to respond.

We found the day on "The Hill" to be educational and productive. We can only hope that the current tax landscape of sand dunes changing with even the slightest breeze will begin to look more like solid ground.

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Special Points of Interest:

- Health care reform and its impact on you
- New incentives in place for hiring unemployed workers
- Uncertainty in estate tax law leaves open the possibility that no estate tax will be levied in 2010
- California offers new homebuyers another credit and tax relief from cancellation of debt income

Health Care Reform

As we are all aware, major comprehensive health care reform legislation was enacted in March. The legislation does not mandate employer-provided insurance coverage, but it does impose penalties on large employers who do not offer coverage beginning in 2014. Additionally, most individuals without health insurance coverage are scheduled to pay a penalty beginning in 2014.

Provisions effective for 2010 include:

- **Small Business Tax Credit**—A tax credit up to 35% of premium costs is available for employers with no more than 25 full-time employees with average annual wages of \$50,000 or less.
- **Dependent Children Coverage**—Health care coverage is extended to dependent children under age 27
- **High Risk Pool**—A high-risk pool has been established for people with pre-existing medical conditions
- **Coverage Limits Removed**—Group and individual plans are prohibited from placing lifetime dollar limits on coverage.
- **Rescinding Coverage Disallowed**—Insurers are prohibited from rescinding coverage except in cases of fraud.

Other provisions will become effective through 2018. One item of confusion is the requirement that the cost of employer sponsored health coverage is reported on W-2s beginning in 2011. This is *not additional taxable income*, but only an informational reporting requirement.

Hiring Incentives to Restore Employment Act (HIRE)

Just prior to the enactment of the Health Care Reform package, the HIRE Act was signed by President Obama. The key provisions of this law are:

- **Sec. 179 Expense Rules Extended**—Under HIRE, qualifying businesses can continue to expense up to \$250,000 of section 179 property for the 2010 tax year.
- **Payroll Tax Holiday**—Employers who hire unrelated workers that have been unemployed for the prior 60 day period (they can have up to 40 hours of work in that period) may be eligible for relief from the employer share of social security tax (6.2%). The exemption is for employees hired from February 4, 2010 to December 31, 2010 and is effective for wages paid from March 19, 2010 to December 31, 2010.
- **New Hire Retention Credit**—A \$1,000 credit may be claimed for each “retained worker”. A retained worker is a newly hired unemployed worker (as defined above) who is employed for 52 consecutive weeks and whose wages in the last 26 week period are at least 80% of the wages for the first 26 weeks. As the 52 week period won’t end until next year, the credit will be claimed on the 2011 tax return.

Employers may claim the retained worker credit **OR** the payroll tax holiday, but not both, for each worker.

Our Newsletter Delivery Is Going Electronic

Greening Continues—Last Dead Tree Newsletter!

In our ongoing effort to become a paperless office and a greener business, all future newsletters will be sent via email. Not only does this bring us one step closer in meeting our goals, but we have heard from numerous clients that they prefer receiving communications from us in an electronic format. We will still send a paper version of the newsletter to clients who request that we do so; however, you must notify us if that is your preference. We hope that you will join us in our commitment to becoming a paperless office.

Federal Estate Tax Law in Limbo

Under current law, *which is subject to change as a frustrated Congress deliberates*, the federal estate tax has expired for individuals dying in 2010. As a result, almost all estates of **individuals dying in 2010 will pay no estate tax**. California, which has not had an estate tax since 2004, did not conform to this change.

In addition to the expiration of the estate tax, the method for establishing the cost basis of inherited assets has changed for 2010. Prior to 2010, inherited assets received a “stepped-up” cost basis—that is, inherited assets were re-valued as of the date of death to the current market value for the purposes of calculating gain or loss upon their sale. This resulted in taxes to the beneficiary only to the extent of an increase in asset value between the date of death the sale of an inherited asset. California continues to follow this rule.

For federal purposes in 2010, the inherited basis of assets is determined by the lower of the decedent’s cost basis or the fair market value on the date of death. However, each estate is permitted to increase the basis of its assets by \$1.3 million. In addition, the basis of property transferred to a surviving spouse may be increased by an additional \$3 million for a total basis increase of \$4.3 million. The new basis of any asset cannot exceed its fair market value on the date of death.

Congress may or may not enact legislation to extend the 2009 rules to 2010. However, any legislation with retroactive imposition dates will not apply to the estates of individuals dying before the enactment. Stayed tuned for future updates on this issue.

Yet Another Homebuyer Credit

While the most recent version of the federal homebuyer credit has expired, California has enacted a credit that is substantially different from the prior CA homebuyer credit which expired in June, 2009. Effective May 1, 2010, \$100 million has been set aside for first-time homebuyers and an additional \$100 million for new construction home purchasers. Like the prior California credit, it will be paid out over three years.

The maximum credit is 5% of the purchase price, not to exceed \$10,000, but it will be limited to the amount of your California tax liability—meaning that it is not refundable beyond the amount of the tax as calculated on your California tax return. This credit expires at the end of 2010; however, it is expected that the allocated funds will be exhausted prior to that date.

The Franchise Tax Board (FTB) will accept applications for the credits **by fax only**. Within two weeks after the close of escrow, Form 3549-A and the settlement statement must be faxed to the FTB at **916-855-5577**. This form has sections to be completed by both the buyer and seller. It is best if the title company, on behalf of the buyer, assists in completing the form and faxing the required documents to the FTB. However, the buyer has ultimate responsibility to make a complete and timely filing of the application.

CA Conforms to Cancellation of Debt Rules w/ Exceptions

As we have previously reported, California does not conform with federal tax laws in numerous areas, and this continues to present a major challenge to both taxpayers and tax professionals. However, new legislation was enacted in 2010 which brings about partial conformity to the IRS code as of January 1, 2009.

With the new legislation, California will retroactively conform to federal laws for the treatment of cancellation of debt income (COD) 2009 to 2012 with some exceptions.

- Qualified principal residence indebtedness is limited to \$800,000 for California instead of the federal limit of \$2,000,000.
- The maximum cancellation of debt income exclusion for California is further limited to \$500,000

While the limits vary between California and federal laws, the issues relating to them are the same. Under both sets of laws there is a possibility of having excess COD which could reduce the exclusion amount available to the taxpayer. As this is a highly complex area of the tax code, please contact your tax preparer if you have had a cancellation of debt since January 1, 2009.

ANSPACH FINANCIAL GROUP *TAX AND FINANCIAL PLANNING*

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At Anspach Financial Group, we are committed to providing valuable and personalized services to each of our clients. We strive to solve complex tax and related issues by combining technical expertise with creative planning and problem solving. The experience, professional credentials and personal attention of our partners provide our clients with superior services at reasonable cost.

Calendar

Tax Due Dates

June 15	Second quarter estimated tax payments due
June 30	Filing deadline for foreign bank and investment account reporting (TD F 90-22.1)
July 31	Due date for second quarter payroll tax returns Due date for second quarter and annual sales tax returns
September 15	Final filing date for calendar year corporation and partnership returns on extension Third quarter estimated tax payments due
October 15	Final filing date for individual and fiduciary tax returns on extension

Anspach Financial Group Calendar

August 31	Deadline for providing all required information for the preparation of 2009 calendar year corporation and partnership returns to ensure completion by the September 15th due date
September 30	Deadline for providing all required information for the preparation of 2009 individual and fiduciary returns to ensure completion by the October 15th extended due date