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YEAR-END PLANNING

IN THE YEAR OF THE CLIFF

MEANINGFUL YEAR-END TAX PLANNING IN UNCERTAIN TIMES

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YEAR-END PLANNING IN THE YEAR OF THE CLIFF

With all the hype surrounding the Fiscal Cliff, both before and after the election, there is an almost unprecedented level of uncertainty surrounding the degree to which meaningful year end tax planning can actually occur.

Nonetheless, there are some basic guidelines we can follow.

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Regardless of anything else that happens, tax rates for at least some Americans will be higher in 2013 than they are in 2012. This is true even if congress extends all of the Bush tax cuts for another year. Why? There are two new taxes being imposed in 2013, courtesy of the Affordable Care Act; a 0.9% additional Medicare Tax for those earning more than $200,000 per year, and a new 3.8% tax on net investment income for those with Adjusted Gross Income (AGI) over $200,000 ($250,000 married filing joint).

So, what does this mean in plain English? 2012 is a year in which traditional tax planning takes a back seat to the counterintuitive approach of accelerating income recognition. Why would we do that? In most cases, with most classes of income, the tax rates in 2012 are lower than they will be in 2013. In some cases those differences are significant. Some examples follow:

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Income Item	2012 Rate	2013 Rate	Potential Medicare Tax	Total Potential 2013 Tax Rate
Ordinary Income	**35%**	39.6%	3.8%	**43.4%**
Dividend Income	**15%**	39.6%	3.8%	**43.4%**
Capital Gains	**15%**	20%	3.8%	**23.8%**

Compare the 2012 rate column with the Total Potential 2013 rate column. The potential rate on dividend income could increase to three times the 2012 rate!

So, from a practical standpoint, what should a taxpayer do?

- Consider accelerating income and deferring deductions. This can work at both a personal and business level.

- Take advantage of the low rate on long-term capital gains by selling appreciated long-term stock and taking gains in 2012. If you still like the stock and want to continue to own it, buy it back - wash sale rules only apply to loss sales.

You'll lock in a higher basis, having paid tax at the (relatively) low 15% capital gain tax rate.

With just a short time to the end of the year, if you are in a position to do so, consider taking advantage of the current $5.12 million gift tax exclusion before year-end by making gifts to your eventual heirs.

- If you have recently turned 70-1/2 and are faced with the decision of when to take your first Required Minimum Distribution (RMD) from your retirement plan, do not defer it into 2013 - take it in 2012. If you defer it, not only would you have to pay a higher tax rate on it, you would have to take two distributions in 2013 - at the higher tax rate!

- But, wait until the very end of the year to take your RMD if you're considering making a direct charitable contribution from your IRA, to see if Congress brings back Qualified Charitable Distributions.

- If you have a closely held C corporation, consider paying dividends from it before December 31 to take advantage of the 15% tax rate.

- If you are a business owner, take advantage of the remaining tax breaks available for purchasing equipment & software.

- Finally, with just a short time to the end of the year, if you are in a position to do so, consider taking advantage of the current $5.12 million gift tax exclusion before year-end by making gifts to your eventual heirs. There are techniques available for making such gifts in trust that may allow you to continue to enjoy current income from those gifted assets.

There's a lot to consider here and not a lot of time in which to make decisions - let alone the right decisions. That's why we're here to help. If you would like help in implementing any of these strategies, please contact us.

Have questions regarding your year-end tax planning?

Contact **Howard Kass** at Zinner & Co. for his insights on making meaningful decisions in uncertain times. Reach Howard at 216.831.0733 or via email at hkass@zinnerco.com

Howard J. Kass has over 30 years experience and has cultivated particular expertise in individual and business income taxes, tax aspects of real estate investment, gift and estate taxes and tax exempt organizations. Howard applies his extensive knowledge and experience to a diverse client base of individuals and companies including closely held businesses in a variety of industries and ownership structures such as C Corporations, S Corporations, Partnerships, and LLCs. Industries served include real estate, manufacturing, retail establishments, insurance agencies, distributors and service companies.