



Vol. 13, Issue 2

Scribner, Cohen and Company, S.C.
CPAs and Advisors

2013 Year-End Planning For Businesses

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While many tax provisions, including the recent tax law changes, may benefit your business, understanding and taking advantage of the full range of the latest tax provisions can be a daunting task. As the year comes to an end, there are several tax laws and credits set to expire; it is unknown whether Congress will work to extend them. In addition, there are also many new laws that will affect you this year and in future years—laws that could create a greater tax burden for you and your business.

Below we have set forth a sampling of the changes, the new laws and the expiring laws. Gaining a full understanding of those that affect your specific circumstances will help you more effectively manage and potentially reduce the amount of tax you pay. At Scribner, Cohen and Company, we are available to help you make the best choices for your unique circumstances.

Some of the Tax Extenders Set to Expire

Section 179 Expensing Election:

The Section 179 deduction provides immediate tax relief, increased cash flow and reduction in the after-tax cost of investing in new or used trade or business property by allowing a small business to immediately write off the cost of eligible tangible business property.

Tangible business property includes most business personal property placed in service during the tax year, including computers, office furniture, vehicles and machinery, as well as off the shelf computer software, and for 2013 only, qualified real property.

Taxpayers may elect to expense up to \$500,000 of new or used trade or business property acquired in 2013. Beginning in 2014 the expensing election drops to

\$25,000. The election phases out dollar for dollar starting at a total of \$2,000,000 in qualified additions in 2013 and \$200,000 in qualified additions in 2014. No more than \$250,000 in qualified real property additions may be expensed in 2013.

Qualified Leasehold Improvement Depreciation

The American Taxpayer Relief Act extended the exception allowing 15-year straight-line cost recovery for certain qualified leasehold improvement property, qualified restaurant buildings and improvements, and qualified retail improvement property placed into service before January 1, 2014.

This is a statutory exception to the general rule that the costs of leasehold improvements to nonresidential real property are depreciated on a straight-line method over 39 years. Such property is also eligible for a 50% bonus first-year depreciation deduction.

First Year Bonus Depreciation:

The first year bonus depreciation deduction was extended for one year, through 2013, and allows for an immediate write off of 50% of the cost of new tangible personal property, off the shelf computer software and qualified nonresidential property leasehold improvements used in a trade or business or held for the production of income.

All qualifying property placed in service during 2013 is eligible for the first year bonus depreciation deduction without limit. First year bonus depreciation is mandatory unless the taxpayer affirmatively elects out.

A thorough analysis of property acquired in 2013 should be made in order to maximize the tax benefits resulting from both bonus depreciation and the Section 179 deduction for your business.

Work Opportunity Tax Credit

To qualify for this credit, an employer must hire members of certain targeted groups and have those individuals start work before January 1, 2014. The credit is generally equal to 40% of the worker's first-year wages up to \$6,000, or up to \$24,000 for certain disabled qualified veterans.

Small Business Stock

The extender allows a non-corporate taxpayer to exclude from gross income 100% of the gain realized from the sale or exchange of qualified small business stock held for more than five years as long as qualifications are met.

Recognition Period of S Corporations Built in Gains

The extended reduced reduction period of five years is set to expire at the end of 2013. After expiration, the period reverts back to ten years.

New for 2013

3.8% Surtax on Investment Income

The new 3.8% Medicare Contribution Tax went into effect January 1, 2013. The tax applies to individuals who have net investment income and whose modified adjusted gross income exceeds \$250,000 for married couple filing joint returns and \$200,000 for single and head of household taxpayers. Net investment income includes interest, dividends, capital gains, rents and passive income, whether earned directly or through a partnership, S corporation or other pass-through entity. In addition, income from the sale of your business or real estate investments may be subject to this tax.

0.9% Medicare Withholding Tax

Starting in 2013, there is an additional 0.9% Medicare Withholding Tax on wages in excess of \$250,000 for a married couple filing jointly and \$200,000 for single individuals and heads of household. Employers are responsible for withholding and paying this surtax on all wages in excess of \$200,000. This tax is also assessed on self-employment income that exceeds these same thresholds.

New Health Care Law Requirements

In July 2013, the Obama administration delayed the employer shared responsibility payment provision (the employer mandate) of the Patient Protection and Affordable Care Act. However, the individual shared responsibility provision (the individual mandate) has not been delayed. Starting in 2014, individuals must carry health insurance or pay a penalty unless they are exempt.

The Patient Protection and Affordable Care Act of 2010 requires businesses that employ fifty or more full-time equivalent employees during the preceding calendar year to offer health insurance to their employees or be subject to a financial penalty. While the penalty provisions do not apply until 2015, business owners may need to begin planning now in order to avoid the penalties.

You may be surprised to learn that full-time employees for the purposes of this law are individuals who work at least 30 hours per week. In determining whether an employer has met the 50-employee threshold, part-time workers must also be counted, as well as employees who work for related entities.

As individuals begin to sign up through the Marketplace insurance exchange and apply for premium assistance, their employers will start receiving notices from the exchange. These notices require verification of information in regard to those employees. Do not neglect those notices. Respond to them or you may be required to pay the penalty.

Small Business Health Insurance Credit

To encourage employers to help subsidize their employees' health insurance coverage, a tax credit is available to eligible small businesses who pay at least half of their employees' health insurance coverage. Even if an owner doesn't owe tax in the current year, the credit can provide a tax refund by being carried back or used in future years.

Starting in 2014, to be eligible for the credit, a small employer must pay premiums on health insurance plans for employees enrolled in a qualified health plan offered through a small business health option program (shop) marketplace.

However, a number of criteria, including the number of full-time equivalent employees and their average wages, affect the extent to which the credit can be applied. Small businesses with 10 or fewer full-time equivalent

employees and average annual wages of less than \$25,000 can receive the full credit. Employers who pay 25 or fewer full-time equivalent employees an average annual wage of less than \$50,000 are eligible for a portion of the credit. Note that the determination of eligibility requires careful recordkeeping in order to complete the necessary calculations.

Home Office Deduction

The home office deduction is not new, however, the safe harbor method is. Home office expenses are generally deductible if part of a business owner's personal residence is used regularly and exclusively as either the principal place of business or as a place to meet with patients, customers or clients.

The IRS recently provided an optional safe-harbor method that makes it easier to determine the amount of deductible home office expenses. Starting in tax year 2013, the new rules allow taxpayers to deduct \$5 per square foot of home office space (up to 300 square feet). Deductions such as interest and property taxes allocable to the home office are still permitted as an itemized deduction for taxpayers using the safe harbor.

Final Repair/Capitalization Regulations:

On September 13, 2013 the IRS issued long-awaited final regulations regarding the treatment of expenditures incurred in acquiring, producing, or improving tangible assets, including rules on determining whether costs related to tangible property are deductible repairs or capital improvements. The final regulations will challenge virtually every business because of their broad application.

These final regulations apply to taxable years beginning on or after January 1, 2014, but would permit taxpayers to apply them retroactively to taxable years beginning on or after January 1, 2012 in certain cases.

The regulations change the definition of materials and supplies to a unit of property with an acquisition cost of \$200 or less, and thus, not subject to capitalization. Taxpayers may elect to capitalize and depreciate amounts paid for certain materials and supplies, but this rule only applies to rotatable (components that are repeatedly restored), temporary or standby emergency spare parts.

A de minimis safe harbor ceiling election allows a taxpayer to expense up to \$5,000 per invoice or item.

In order to qualify for the \$5,000 de minimis election the taxpayer must

1. Have Applicable Financial Statements (Audited Financial Statements) and
2. A written policy that is put into place by January 1, 2014 expressly stating the dollar amount to be expensed per invoice or item not to exceed \$5,000.

The de minimis safe harbor also applies to an accounting procedure that expenses amounts paid for property with an economic useful life of 12 months or less as long as the amount per invoice (or item) does not exceed \$5,000.

If you do not qualify for the \$5,000 de minimis rule, then taxpayers may qualify for the \$500 per invoice or item rule.

Taxpayer qualifies if:

1. Taxpayers do not have applicable financial statements (reviews and compilations are not considered applicable financial statements) and
2. A written policy is put into place by January 1, 2014 expressly stating the dollar amount to be expensed per invoice or item not to exceed \$500.

The above election also pertains to property with economic useful life of 12 months or less as long as the amount per invoice (or item) does not exceed \$500.

The final regulations provide that the de minimis safe harbor is elected annually by including a statement on the taxpayer's timely filed original Federal tax return for the year elected.

As stated above, the final regulations also provide that taxpayers who elect to use the de minimis safe harbor—either \$5,000 or \$500— must have written accounting procedures in place prior to the beginning of their 2014 taxable year.

See the final page of this newsletter to view a sample template for an accounting procedure to put into place or visit our website at www.scribnercohen.com and go to useful links.

Other Planning Strategies

Saving For Retirement:

Saving for retirement is a key consideration for many small business owners. Common options for small business owners include: IRA-based plans such as Savings Incentive Match for Employees (SIMPLE) and Simplified Employee Pension (SEP) plans, as well as profit-sharing plans and a variety of 401(k) plans.

Qualified retirement plans include many tax benefits for both the employer and employees. With traditional plans, employers get a tax deduction for contributions, and employees may be allowed to make pre-tax contributions and defer taxes on income until distribution. With Roth Plans, employees do not get tax deductions for contributions, but qualified distributions and withdrawals are tax-free.

Assets held in qualified plans are generally protected from creditors of both employees and employers. However, these plans are heavily regulated and include different contribution limits and matching requirements. In addition, plans may have nondiscrimination requirements and top-heavy rules, which require their own tax-filing obligations.

While Congress provides many tax incentives for retirement savings, understanding the options and determining the most appropriate retirement plan for your business requires a thorough analysis in order to choose the plan that best fits the needs of your business.

Start-Up and Organizational Expenses

New business owners typically incur a wide range of costs in the launch of their business. Both start-up and organizational costs are eligible deductions in the year a business is started. These deductions promote entrepreneurship and make additional capital available to business owners by reducing the net taxes owed.

Start-up costs include expenses incurred when investigating whether to start or buy a business, market analysis and feasibility studies, advertising, consultant fees, attorney fees and accountant fees paid prior to the start or purchase of the business. Business owners may deduct a portion of these costs in the year the business starts (\$10,000 in 2013), and any balance over time (typically over 180 months).

Organizational costs, which are different from start-up costs, are incurred in the setup of C or S corporations, partnerships, or limited liability companies and can be

deducted under the same rules as business start-up costs.

Wisconsin Tax Law Changes for Businesses:

Effective for taxable years beginning on or after January 1, 2014, for purposes of computing depreciation, depletion, and amortization on property additions placed in service in those years, Wisconsin depreciation will be computed under the law in effect on January 1, 2014 for federal purposes. The same will hold true for the computation of the Wisconsin section 179 expensing election deduction.

Because the Wisconsin and federal systems have differed for many years, the respective deductions relative to assets placed into service in prior years have differed. In order to bring the two systems together, taxpayers must consolidate the cumulative difference between adjusted federal tax basis and adjusted Wisconsin tax basis as of the last day of the tax year beginning in 2013 into a single asset account that may be amortized/depreciated at the rate of 20% per year over the next five years (tax years 2014 through 2018).

For taxable years beginning on or after January 1, 2013, the economic development surcharge does not apply to individuals, estates, trusts, partnerships, and limited liability companies treated as partnerships.

By the Numbers is published by Scribner, Cohen and Company, S.C. as a source of information for clients and business associates. This information is of a technical nature and professional advice should be sought before implementing specific ideas. Please call for more information or if you have any other questions.

Capitalization Policy for the Acquisition or Production of Tangible Property

Tangible Property refers to all tangible personal and real property acquired or produced by the company as implements, tools, materials, supplies, equipment, furniture, land, buildings, and fixtures for its place(s) of business for the purpose of carrying out all aspects of business operations.

Policy:

Amounts paid to acquire or produce tangible property not exceeding (*a specified dollar amount*) or having an economic useful life of 12 months or less and costing less than (*a specified dollar amount*) are to be charged to the appropriate de minimis property expense account. All tangible property expenditures under the above threshold are to be charged to the expense accounts. This policy does not apply to land and property intended to be included in inventory.

Dated: _____

Important Notes:

See Reg. §1.263(a)-1(f)(1)(i) and (ii)

This policy must be in place effective on the first day of the taxpayer's year in which the de minimis safe harbor rule is elected. In addition, the taxpayer must expense items for books pursuant to the policy. In other words, the item must be expensed for book and tax. It is possible that the book limitation may be larger than the tax limitation, but only amounts qualifying for the tax limitation (\$5,000/\$500 per item) may be deducted. See Reg. §1.263(a)-1(f)(7), example 4.

PAYROLL TAX UPDATES

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PAYROLL TAX RATES AND LIMITS FOR 2014

Social Security (OASDI) Wage Base	\$117,000
Medicare Wage Base	No limit
OASDI Percentage	
- Employer	6.2%
- Employee	6.2%
Maximum OASDI Withholding	
- Employer	\$7,254.00
- Employee	\$7,254.00
Medicare Percentage	1.45%
Medicare Percentage on wages Over \$200,000	2.35%
Maximum Medicare Withholding	No limit
Maximum Federal Unemployment Compensation Wage Base	\$7,000
Maximum WI State Unemployment Compensation Wage Base	\$14,000

2014 Wisconsin
Unemployment Tax Rates

Firms with less than \$500,000 taxable payroll:

- ❖ **Minimum rate - .27%**
- ❖ **New employer (construction industry) - 6.6%**
- ❖ **All other new employers - 3.6%**

SOCIAL SECURITY TAX

For 2014, the employer tax rate for social security remains unchanged at 6.2%.

The additional 0.9% surtax increases the employee share of Medicare tax for wages. Employers must begin to withhold the surtax in any pay period in which year-to-date wages in excess of \$200,000 are paid to an employee in a calendar year. This amount is withheld as federal income tax withholding.

FEDERAL UNEMPLOYMENT TAX (FUTA)

The FUTA tax rate will remain at 0.6%.

- ❖ No deposit is required if the FUTA tax liability for the quarter is \$500 or less.
- ❖ If payment is not required for the quarter, the liability incurred is added to the following quarter's liability.
- ❖ If the FUTA tax liability for the quarter is greater than \$500 (including any unpaid liability from the previous quarter), a deposit is due the last day of the first month following the end of the quarter.
- ❖ Wisconsin is a credit reduction state. Therefore, an additional 0.9% is calculated on FUTA taxable wages and submitted with your FUTA deposit. See Form 940 (Schedule A) for other states that may be a credit reduction state.

WISCONSIN UNEMPLOYMENT TAX

For 2014, the unemployment wage base will remain unchanged at \$14,000. This means that the first \$14,000 of wages earned by each employee during a calendar year will be subject to Wisconsin unemployment taxes.

Wisconsin unemployment tax payments must be *received* on or before the due date to be considered on time. The latest date an EFT payment can be made and still have a settlement date of the due date, is 4:00 P.M. one business day before the tax due date.

FEDERAL TAX DEPOSITS REMINDER

As of January 1, 2011, you must use electronic funds transfer to make all federal employment tax deposits.

Generally, electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS). If you do not want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make deposits on your behalf. Also, you may arrange for your financial institution to initiate a same-day tax wire payment on your behalf.

EFTPS is a free service provided by the Department of Treasury. To get more information about EFTPS or to enroll in EFTPS, visit www.eftps.gov.

NEW HIRING REMINDERS

All employers must use Form I-9 for new employees. Within three days of being hired, the employee's identity and employment eligibility must be verified. If copies of documents are made, they must be retained with Form I-9. Employers must retain the completed forms for three years after the date of hire or one year after the date employment ends, *whichever is later*.

Form I-9 can be obtained from the internet website at **www.uscis.gov**. These forms can be reproduced, provided both sides are copied. Instructions must be available to all employees completing this form. Employers are required to report each newly hired employee to the State of Wisconsin within 20 days after the employee starts work. State Form WT-4 or Federal Form W-4 can be used to report via mail or fax. Internet reporting can be completed at **www.dwd.state.wi.us/uinh**.

The WT-4 form can be obtained from the Wisconsin Department of Revenue website at **www.dor.state.wi.us**. The Federal W-4 can be obtained from the internet website at **www.irs.gov**.