CORDASCO
& COMPANY P.C.

Certified Public Accountants

2014

YEAR-END INCOME TAX PLANNING FOR CORPORATE AND NON-CORPORATE BUSINESSES

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INTRODUCTION

It's that time of year when businesses should consider year-end planning strategies. This task is particularly challenging for 2014 due to the long list of popular, temporary business tax breaks that ***expired at the end of 2013.*** In the past, Congress has retroactively extended the vast majority of these tax breaks after they expired. However, ***as we complete this letter,*** Congress has not passed legislation to extend the expired provisions.

> **Planning Alert!** Congress may address these expired tax breaks in an "extender's bill" in its lame-duck session after the November elections, or may wait until early 2015. We monitor proposed legislation closely, so ***please call our firm*** if you need a ***status report.***

> **Tax Tip!** Due to the uncertainty of the status of these expired tax breaks, we believe the best approach for year-end planning is to be ***prepared to act quickly near the end of 2014*** in case Congress passes legislation to extend these provisions late in the year. Consequently, the first segment of our letter below highlights the business tax breaks that expired at the end of 2013 – but could be extended later this year.

Even though the status of the expired business tax provisions creates uncertainty, there continues to be many *traditional* year-end tax planning strategies allowing businesses to save taxes (whether the business operates as a regular "C" corporation, "S" corporation, partnership, LLC, or a self-employed individual). Therefore, we are sending you this letter to remind you of these time-tested, year-end tax planning strategies. This letter also highlights *new* tax planning opportunities available to businesses due to recent law changes.

To help you locate items of interest, we have divided the planning ideas into the following topics:

- Business Tax Breaks That Expired At The End of 2013
- Long-Awaited Final "Capitalization" Regulations Effective For 2014
- Employer Health Coverage Mandate
- The 3.8% "Net Investment Income Tax" – Strategies For Business Owners
- Year-End Planning With Purchases Of Depreciable Equipment, Etc.
- General Year-End Business Planning

> **CAUTION!** Although this letter contains many planning ideas, you cannot properly evaluate a particular planning strategy without calculating the overall tax liability of the business and its owners (including the alternative minimum tax) with and without the strategy. In addition, this letter contains ideas for Federal income tax planning only. ***State income tax issues are not addressed.*** You should also consider any state income tax consequences of a particular planning strategy. We recommend that ***you call our firm before implementing any tax planning technique*** discussed in this letter, or if you need more information.

BUSINESS TAX BREAKS THAT EXPIRED AT THE END OF 2013

List Of Selected Business Tax Provisions That Expired At The End Of 2013. There seems to be an ever- expanding list of temporary tax breaks that expire every few years. However, even though Congress often waits until the last minute, it has *historically* extended most of the more popular provisions. Unfortunately, as we complete this letter, Congress has yet to extend a host of tax breaks for businesses that expired at the end of 2013. The following are some of the more popular tax breaks that have been available to businesses over the past several years that ***expired after 2013*****:** **1)** 15-Year (Instead of 39-year) Depreciation Period For "Qualified" Leasehold Improvements, Restaurant Property, And Retail Improvement Property; **2)** 7-Year Depreciation Period For Certain Motor Sports Racetrack Property; **3)** Research And Development Credit; **4)** Employer Differential Wage Credit For Payments To Military Personnel; **5)** Favorable S Corporation Charitable Contribution Provisions Involving Capital Gain Property; **6)** Various Tax Benefits For Qualified Energy-Efficient Expenditures And For Qualifying Investments In Empowerment Zones; **7)** Election For C Corporations To Exchange Bonus Depreciation For Refundable AMT Credits; **8)** Parity Between Employer-Provided Parking And Employee Transportation Fringe Benefits; **9)** Enhanced Charitable Contribution Rules For Qualifying Business Entities Contributing Food Inventory; **10)** 100% Exclusion (Instead Of 50% Exclusion) For "Qualified Small Business Stock"; **11)** Reduction Of The S Corporation 10-Year Built-In Gain "Waiting Period" To 5 Years; **12)** Up-Front Deduction Of Up To $1.80 Per Square Foot Of Qualified Energy-Efficient Property Installed In A Commercial Building; **13)** Credit For Builders Of Energy-Efficient Homes; and **14)** Work Opportunity Tax Credit.

> **Planning Alert!** Many observers believe that Congress will eventually extend most, if not all, of these business tax breaks retroactively to the beginning of 2014, and through 2015. This prediction is based, in part, on proposed legislation currently being considered by the House and the Senate.

> **Caution!** ***In addition to*** the expiring provisions listed above, the following ***two business tax breaks*** that ***expired after 2013*** ***warrant special attention*****:**

The 50% 168(k) Bonus Depreciation. For most of the last decade, a ***168(k) first-year bonus depreciation*** deduction has been available to businesses for qualifying property (generally ***"new"*** property with a MACRS recovery period of 20 years or less). Over the last several years, the deduction percentage has fluctuated between 30% and 100% of the asset's cost. For example, for qualifying property placed-in-service ***after 2011*** and ***before 2014,*** the deduction was 50% of the cost of the property. This deduction generally ***expired*** altogether for qualifying property placed-in-service ***after December 31, 2013.***

Planning Alert! A narrow group of properties that includes certain long-production-period property and qualifying noncommercial aircraft still qualifies for the 50% bonus depreciation if acquired before 2014 and placed-in-service ***on or before December 31, 2014.***

Observation! Last Spring, the Senate Finance Committee approved a bill that would reinstate the "50%" 168(k) first-year bonus depreciation to property placed-in-service after 2013, and through 2015. However, as we complete this letter, this Bill has yet to go to the entire Senate for a vote.

The "Expanded" Section 179 Deduction. Another extremely popular business tax break ***that expired for tax years beginning after 2013*** was the "expanded" section 179 deduction. The section 179 up-front deduction generally applies to the cost of qualifying "new" or "used" depreciable business property (e.g., business equipment, computers, etc.). For property placed-in-service in ***tax years beginning in 2010 through 2013***, the overall section 179 cap was increased to ***$500,000***, and this $500,000 deduction limit was reduced only if the aggregate section 179 property placed-in-service during the year exceeded ***$2 million***. In addition, for ***property placed-in-service in tax years beginning in 2010 through 2013***, a business could elect to deduct ***up to $250,000*** of ***"qualified real property"*** under section 179. Unfortunately, these "expanded" section 179 deduction provisions were temporary. Consequently, under current law, for **tax years *beginning after 2013:* 1)** The maximum section 179 deduction has dropped ***to $25,000*** (down from $500,000), **2)** The phase-out threshold has ***dropped to $200,000*** (down from $2 million), and **3)** ***"Qualified real property"*** and ***computer software*** no longer qualify for the ***section 179 deduction*** at all.

Observation! The proposed Senate Finance Committee bill mentioned above, would (if passed) not only re-instate the 50% 168(k) bonus depreciation (discussed above), but would also re-instate each of these "expanded" section 179 provisions for 2014, through 2015.

LONG-AWAITED FINAL "CAPITALIZATION" REGULATIONS EFFECTIVE FOR 2014

Survey Of Rules. Most businesses, regardless of size, continually deal with the tax issue of whether expenditure for acquiring, producing, or maintaining depreciable business property (e.g., machinery, equipment, vehicles, buildings, etc.) is currently deductible or must be "capitalized" and depreciated. Historically, the detailed rules for determining whether such expenditures should be "capitalized" or deducted as a current "expense" were found in various Court decisions.

However, on September 13, 2013, the IRS released long-awaited ***"final"*** capitalization regulations addressing expenditures relating to the acquisition, production, or maintenance of ***tangible business property*** (e.g., machinery, equipment, vehicles, buildings, etc.). The ***"final"*** capitalization regulations are ***generally effective for tax years beginning after 2013.***

> **Note!** In addition to the "capitalization" vs. "expense" issue, the ***final*** regulations also provide rules for the timing of the deduction for ***"materials and supplies"*** (including the timing of the deduction for rotable, temporary, and emergency spare parts).

> **Caution!** The ***final*** regulations are "massive" (filling more than 200 pages) and, therefore, are impossible to cover in detail in this letter. However, since these new regulations will have a significant impact on many businesses ***beginning with the 2014 tax year,*** we highlight below selected provisions of the regulations that we believe are noteworthy.

Complying With These Regulations Most Likely Will Require Taxpayers To Apply To The IRS For An Accounting Method Change. Starting with the ***first tax year beginning after 2013,*** at least ***13 of the provisions*** of the ***final "capitalization" regulations*** require businesses to apply for an "automatic" accounting method change with their income tax return, *if they are not currently in compliance with the regulations*. ***Some believe that almost every business with significant tangible business property or with materials and supplies will need to file Form 3115 for their first tax year beginning after 2013.*** The IRS has issued a formal procedure (i.e., Revenue Procedure 2014-16) outlining the rules for applying for such automatic accounting method changes which require, among other things, the completion and submission of ***Form 3115*** with a taxpayer's income tax return, and with the IRS's Ogden campus.

> **Good News!** Generally a user fee of up to $7,000 is charged for requesting an accounting method change. However, there is ***no user fee*** for "automatic" accounting method change requests (Forms 3115) submitted in accordance with Revenue Procedure 2014-16.

Complying With The Final Regulations May Require "Current" Income Adjustments For Transactions That Occurred Prior To 2014. Although the ***final*** regulations are ***"effective"*** for ***tax years beginning after 2013, 7 of the 13 required accounting method changes*** (mentioned above) require a ***"cumulative adjustment"*** to income in order to comply with the final regulations. This is called a ***"§481(a) adjustment."*** **For example,** assume that in 2010 a business with only one heating and air conditioning system (i.e., a single heat pump) replaced the heat pump with a new one, and ***"deducted"*** the costs of the new heat pump in 2010. The final regulations seem to say that the costs of the replacement heat pump should have been capitalized. Thus, if the business files Form 3115 with its 2014 tax return to comply with the final regulations, there should be a §481(a) adjustment for the difference between: **1)** The ***deduction*** taken in 2010, and **2)** The depreciation deductions that would have been allowed through the first day of the 2014 tax year, had the replacement heat pump been properly capitalized under the requirements of the final regulations.

Observation! These ***cumulative §481(a) adjustments*** may be ***difficult to determine*** since the expenditures in question may have occurred several years prior to 2014.

Planning Alert! There should generally ***be no §481(a) adjustment*** attributable to a depreciable asset if: **1)** The asset is ***not on hand*** at the ***beginning of the 2014 tax year,*** or **2)** The asset is fully depreciated or would have been ***fully depreciated*** as of the ***beginning of the 2014 tax year*** had the expenditure been capitalized and depreciated.

Some Changes Required By The Final Regulations Do Not Require Income Adjustments For Transactions That Occurred Before 2014. *Six of the thirteen required accounting method changes* mentioned above, require the completion of **Form 3115 but do not "require" a §481(a) adjustment** *if made for the first tax year beginning after 2013.* So, if a business changes its accounting method to comply with these six provisions of the final regulations for its first tax year beginning after 2013, the business must simply apply the regulations for tax years after 2013 and ***no adjustment*** is required for prior tax years. ***An example*** of an accounting method change that does not require a §481(a) adjustment (if applied for the ***first tax year beginning after 2013),*** is the rule for the treatment of non-incidental materials and supplies. For tax years ***beginning after 2013,*** taxpayers are required to deduct non-incidental materials and supplies (generally materials and supplies for which a record of consumption is kept) when ***"consumed,"*** rather than when ***"paid"*** (for cash-basis taxpayers), or when ***"incurred"*** (for accrual-basis taxpayers). Therefore, if a business has deducted non-incidental materials and supplies when ***paid*** or ***incurred*** in years before 2014, ***beginning with the 2014 return*** the business should deduct the non-incidental materials and supplies when ***consumed*** rather than when ***paid or incurred.*** In addition, the taxpayer should file a properly completed ***Form 3115*** with the ***2014 return.*** However, in this case, there would be ***no current year "§481" adjustment*** for transactions that ***occurred before 2014.***

Failing To Change Accounting Methods For Tax Years Beginning In 2014. The general revenue procedure dealing with changing accounting methods suggests that taxpayers failing to request an accounting method change to comply with the final regulations could be subject to penalties. For example, the 20% accuracy penalty under §6662 could possibly apply. Therefore, businesses should make a reasonable, conscientious attempt to comply with the final regulations, including changing accounting methods with their 2014 returns to comply with the final regulations. Some of these changes may result in additional deductions on the 2014 return, while others may result in additional income.

More Time Required For Preparing 2014 Business Returns. These new final regulations pose challenges for businesses and for those of us assisting with business tax planning and tax return preparation. We suggest you begin the process of evaluating the effects of these final regulations on your business and, particularly, on the 2014 return for the business as soon as possible. We anticipate that complying with these massive changes will require more time for 2014 return preparation (including the preparation of required Forms 3115). As always, we will gladly assist you in evaluating the effects of these new regulations.

EMPLOYER HEALTH COVERAGE MANDATE RAPIDLY APPROACHING

The Affordable Care Act (ACA) generally provides that ***"applicable large employers"*** (using a 50-employee threshold) who do not offer *qualified health care plan* coverage to full-time employees could face a ***nondeductible excise tax*** (the so-called *play-or-pay* penalty). This employer ***"excise tax"*** for failure to offer such a plan to employees applies only to *"applicable large employers*" and only applies if at least one full-time employee purchases insurance at one of the government-sponsored insurance exchanges and receives a premium tax credit or cost-sharing subsidy. Although *ACA* states that this provision becomes effective in 2014, the IRS has announced that it will not impose this excise tax on "applicable large employers" ***until 2015.***

> **Planning Alert!** Earlier this year, the IRS announced additional transition relief for certain employers for ***"2015 Only."*** Therefore, *no employers are subject to the excise tax for 2014.* And for 2015, IRS has provided additional limited relief from the tax for certain employers. There are too many of these 2015 transition relief provisions to address them all in this letter. However, the following are two relief provisions having broad application:

Employee Threshold For "Applicable Large Employer" Classification Temporarily Increased From 50 To 100. An ***"applicable large employer"*** for purposes of the excise tax is generally an employer that employed on average ***50 or more employees*** (determined by adding together the number of "full-time employees" and the"full-time equivalent employees") during ***each month*** of the ***entire preceding calendar year.*** However, ***for 2015,*** the IRS has provided temporary relief from the penalty for applicable large employers that are below a 100 (instead of 50) employee threshold. More specifically, for a qualifying "applicable large employer" that employed on average ***less than 100*** (instead of 50) ***full-time employees*** (including full-time equivalent employees) during the ***preceding calendar year*** (i.e., the 2014 calendar year), no excise tax will be imposed for any calendar month ***during 2015*** and for any month in 2016 for a ***plan year beginning in 2015.***

"Testing Period" Temporarily Reduced From 12 Months To 6 Months. Generally, to determine whether an employer is an *"applicable large employer"* for the ***current calendar year,*** the ***"Testing Period"*** for applying the ***"50-employee threshold"*** is the ***entire preceding calendar year*** (i.e., an *"applicable large employer"* for the ***"current" year*** is an employer that met the *50-employee threshold* ***during the entire preceding calendar year).*** Thus, under this "general rule," the ***"Testing Period" for "2015,"*** would be the ***entire "2014" calendar year.*** However, for ***2015,*** employers can determine whether they had, for example, more than 99 employees (including full-time equivalent employees) in the previous year by reference to a period of ***at least 6 consecutive months during 2014.*** Thus, this transition rule allows an employer to use a ***"Testing Period"*** as short as ***6 consecutive months*** (instead of 12 calendar months) during ***the 2014 calendar year*** to determine whether the employer has **100 or more** full-time employees (including full-time equivalent employees).

Example. Let's assume your business began hiring additional employees during the summer of 2014, which caused it to exceed the 99 average-monthly-employee threshold for the entire 2014 year. Under this transition rule, your business could, for example, use only the first 6 months of 2014 to compute your average-monthly employees for 2014. If this 6-month "Testing Period" puts your business below the 100-employee threshold, your business would not be subject to the excise tax for 2015.

THE 3.8% "NET INVESTMENT INCOME TAX" – STRATEGIES FOR BUSINESS OWNERS

Overview. ***Beginning in 2013,*** the *Affordable Care Act* imposes a new 3.8% tax on the ***net investment income*** (*3.8% NIIT*) of ***higher-income*** *taxpayers*. With limited exceptions, ***"net investment income"*** generally includes the following types of income (less applicable expenses): interest, dividends, annuities, royalties, rents, "passive" income (as defined under the traditional "passive activity" loss rules), long-term and short-term capital gains, and income from a business of trading in financial instruments or commodities.

> **Planning Alert!** Income, including "passive" income, ***is not*** *"net investment income"* (and is therefore exempt from this new 3.8% NIIT), ***if the income is "self-employment income"*** subject to the 2.9% Medicare tax. The 3.8% NIIT applies to individuals with modified adjusted gross income (MAGI) exceeding the following ***"thresholds"***: ***$250,000*** if ***married filing jointly; $200,000*** if ***single;*** and ***$125,000*** if ***married filing separately.*** The 3.8% NIIT is imposed upon ***the lesser of*** an individual's: **1)** Modified adjusted gross income (MAGI) in excess of the ***threshold,*** or **2)** Net investment income.

Business Income Of Passive Owners May Trigger The 3.8% NIIT. For purposes of this 3.8% NIIT, *net investment income* includes *operating* business income that is taxed to a ***"passive"*** owner (unless the operating income constitutes *self-employment* income to the owner that is subject to the 2.9% Medicare tax). For this purpose, an owner is considered *"passive"* in a business activity if the owner is "passive" under the *passive loss limitation* rules that have been around for years. For example, you are deemed to *materially participate* (i.e., you're not "passive") if you spend ***more than 500 hours*** during the year working in the business.

> **Planning Alert!** Traditionally, business owners have focused on the passive activity rules largely in the context of ***avoiding the*** rigid passive ***"loss"*** restrictions. Now that passive ***"income"*** can be subject to the ***3.8% NIIT,*** business owners are seeking ways to ***avoid*** passive ***"income"*** classification. In light of this new tax, the IRS has even more incentive to argue that a business owner is not *"materially participating"* in the business activity, thus causing the net business losses, or the net business income, to be "passive."

“Passive” S Corporation Shareholders And Limited Partners Should Take Steps To “Materially Participate.” If you are an ***S corporation shareholder*** or ***limited partner,*** and you *materially participate* in the business, your pass-through business income will generally be ***exempt*** from the 3.8% NIIT.

> **Note!** The pass-through income is also exempt from Social Security and Medicare taxes (including the new .9% Additional Medicare Tax on earned income). Thus, if you are currently a “passive” limited partner or S corporation shareholder and your MAGI exceeds the thresholds for the 3.8% NIIT (e.g., exceeds $250,000 if married filing jointly; $200,000 if single), you should begin now taking steps to establish that you *“materially participate”* in the business for 2014. For example, one way to *materially participate* in the business would be to devote *over 500 hours* during the year working in the business.
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> **Tax Tip.** Depending on your specific facts and circumstances and the type of ownership interest you have in a business (e.g., S corporation shareholder vs. limited partner), there may be other ways you can *show that you “materially participate”* in the business without working more than 500 hours.
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> **Planning Alert!** If you have other *“passive”* activities generating losses, you may prefer to remain *passive as to an activity producing income* so that the activity’s income may be used to absorb the *passive* losses.
> **Caution!** These rules are complicated and require a thorough review of your particular situation to develop the most tax-wise strategy.

Rental Income Is Generally Subject To The 3.8% NIIT. Generally, any income or loss from renting real estate, where the average period rented is more than seven days, is deemed for tax purposes to be “passive” income or loss. Passive activity losses (PALs) are generally suspended, and are not allowed unless and until you have qualifying “passive” income to offset the losses or you dispose of the activity. In addition, passive activity income in excess of passive activity losses could be subject to the 3.8% NIIT. However, if you are a “qualified real estate professional” (*QREP*) and meet certain ***“material participation”*** tests, you will be able to deduct losses from your rental real estate activities even if you do not have passive income (e.g., the losses could offset your W-2 compensation, interest, dividend income, and income from businesses in which you materially participate). In addition, if the rental real estate activities produce net income and you spend more than 500 hours working in those rental activities, the income generally would not be subject to the 3.8% NIIT.

Generally, to be a *QREP* you must: **1)** Perform ***more than 750 hours of services*** during the year in ***real estate businesses*** in which you materially participate, AND **2)** ***More than 50%*** of your personal services performed in businesses during the year must be performed in ***real estate businesses*** in which you materially participate. Also, as a *QREP*, you are allowed to make a "tax" election to treat all of your rental real estate activities as a "single" rental real estate activity. If you are a QREP and have multiple rental properties, this election is often necessary for you to meet the required "material participation" tests for all of your rental real estate properties.

> **Planning Alert!** The rules for determining whether the rental income of a qualified real estate professional is exempt from the 3.8% NIIT are tricky and complicated. If you think that this exception to the 3.8% NIIT might apply to you, we will be glad to review your specific situation.

YEAR-END PLANNING WITH PURCHASES OF DEPRECIABLE EQUIPMENT, ETC.

Equipment Purchases May Still Save Taxes Even If The 50% Section 168(k) Bonus Depreciation And The Expanded 179 Deductions Are Not Re-Instated For 2014! As we discussed previously in this letter, as year-end approaches, our firm will closely monitor congressional activity concerning the reinstatement of the section 168(k) bonus depreciation and the expanded section 179 deduction. If the legislation is enacted for 2014, it could be a substantial after-the-fact tax savings for those who have already purchased section 168(k) property (generally ***"new"*** property with a MACRS recovery period of 20 years or less) and/or significant section 179 property (generally ***new*** or ***used*** business equipment, vehicles, other tangible-personal property, and software). However, regardless of future congressional action, current law allows a section 179 deduction of up to $25,000, which begins phasing out once aggregate purchases of section 179 property exceeds $200,000 (and is phased out completely once aggregate purchases equal $225,000).

Example. The maximum annual depreciation deduction (including the section 179 deduction) for most *business automobiles* is capped at certain dollar amounts. For a business auto first placed-in-service in ***calendar year 2014,*** the maximum first-year depreciation deduction is generally capped at $3,160 ($3,460 for trucks and vans not weighing over 6,000 lbs). However, trucks and SUVs with loaded rated vehicle weights over 6,000 lbs are generally exempt from the annual depreciation caps. These "heavy vehicles," ***if used more than 50% in business,*** will also qualify for the section179 deduction (limited to $25,000). For instance, let's assume that in 2014 you purchase and place-in-service a new "over-6,000 lb" SUV ***for $40,000*** used ***entirely for business.*** If you elect to take the section 179 deduction on the vehicle, for 2014 (under current law) you could deduct: **1)** Up to $25,000 under section 179, and **2)** 20% of the remaining cost (i.e., $3,000) as regular depreciation for the first year. Thus, for a $40,000 new heavy SUV placed-in-service in 2014, you could write-off $28,000 in 2014 (assuming 100% business use and the half-year convention applies).

> **Planning Alert!** If you take the section179 deduction on your business vehicle, and your business use percentage later ***drops to 50% or below,*** you will generally be required to bring into income a portion of the deductions taken in prior years.

"Placed-In-Service." Generally, if you are purchasing "depreciable property" (equipment, computer, vehicles, etc.), the property must be placed-in-service no later than the last day of the current tax year (i.e., ***by December 31, 2014*** for a calendar-year taxpayer) for you to qualify for the section 179 deduction or for regular depreciation. "Placed-in-service" means the property is ***ready and available*** for use. To be safe, for calendar-year taxpayers, qualifying property should be ***set up and tested*** on or before the ***last day of 2014.*** If you are dealing with building improvements (e.g., non-structural components of a building), a ***certificate of occupancy*** will generally constitute placing the building improvements in service.

GENERAL YEAR-END BUSINESS PLANNING

S Corporation Shareholders Should Check Stock And Debt Basis Before Year-End. If you own S corporation stock and you think your S corporation will have a tax loss this year, you should contact us as soon as possible. These losses will not be deductible on your personal return unless and until you have adequate "basis" in your S corporation. Any pass-through loss that exceeds your "basis" in the S corporation will carry over to succeeding years. You have basis to the extent of the amounts paid for your stock (adjusted for net pass-through income, losses, and distributions), ***plus*** any amounts you have personally loaned to your S corporation.

> **Planning Alert!** If an S corporation anticipates financing losses through borrowing from an outside lender, the best way to ensure the shareholder gets ***debt basis*** is to: **1)** Have the shareholder personally borrow the funds from the outside lender, and **2)** Then have the shareholder formally (with proper and timely documentation) loan the borrowed funds to the S corporation. It also may be possible to *restructure* (with timely and proper documentation) an existing outside loan directly to an S corporation in a way that will give the shareholder debt basis, however, the loan must be restructured before the S corporation's year ends.
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> **Caution!** A shareholder cannot get debt basis by merely guaranteeing a third-party loan to the S corporation. ***Please do not attempt to restructure your loans without contacting us first.***

Deductions For Business Expenses Paid By Partners. Historically, the IRS has ruled that a partner may deduct business expenses ***paid on behalf*** of the partnership ***only if*** there is an agreement (preferably in writing) between the partner and the partnership providing that those expenses are to be paid by the partner, and that the expenses will not be reimbursed by the partnership.

Tax Tip. If you are a partner paying unreimbursed expenses on behalf of your partnership, to be safe, you should have a written agreement with the partnership providing that those expenses are to be paid by you, and that the expenses will not be reimbursed by the partnership.

Establishing A New Retirement Plan For 2014. Calendar-year taxpayers wishing to establish a qualified retirement plan for 2014 (e.g. profit-sharing, 401(k), or defined benefit plan) *generally* must adopt the plan **no *later than December 31, 2014.*** However, a SEP may be established by the due date of the tax return (including extensions), and a SIMPLE plan must have been established no later than October 1, 2014.

Planning For C Corporation Estimated Tax Requirements. If your C corporation had less than $1 million of taxable income for ***each*** of the past three tax years, it qualifies for the "small corporation safe harbor" for estimated taxes, which allows it to base its current year quarterly estimated tax payments on 100% of its ***"prior" year*** tax liability. If your corporation does not qualify for this safe harbor (i.e., it had $1 million or more of taxable income in any of the prior three tax years), it must generally base its quarterly estimated tax payment (after the first installment) on 100% of its "current" year tax liability, or 100% of its annualized tax liability.

Planning Alert! Even if your corporation otherwise qualifies for the *small corporation safe harbor*, but it had no income tax liability in the prior tax year (e.g., it incurred a tax loss for the prior year or was not in existence last year), it must pay 100% of the "current" year tax or 100% of the annualized tax to avoid an estimated tax underpayment penalty.

Tax Tip. If your corporation currently qualifies for the *"small corporation safe harbor"* and anticipates showing a small tax loss in 2014, you may want to accelerate income (or defer expenses) in order to generate a **small income tax liability in 2014.** This will preserve the corporation's ability to use the "100% of last year's tax" safe harbor for 2015 estimates.

Caution! This technique may not be advisable if your corporation anticipates a 2014 net operating loss that can be carried back to previous years that would generate a sizeable refund.

Planning Alert! If your corporation expects taxable income of more than $1 million for the first time in 2014, consider **deferring income into 2015** or **accelerating deductions into 2014** to ensure the corporation's 2014 taxable income does not exceed $1 million, so that it retains the *small business safe harbor* for 2015.

Self-Employed Business Income. If you are self-employed, it continues to be a good idea to defer income ***into 2015,*** if you believe that your marginal tax rate for 2015 (including the new .9% Additional Medicare Tax and the new 3.8% tax on Net Investment Income) will be equal to or less than your 2014 marginal tax rate. If deferring 2014 income to 2015 will save you overall taxes, and you use the cash method of accounting, consider delaying year-end billings until 2015.

> **Planning Alert!** If you have already received the check in 2014, deferring the deposit does not defer the income. Also, you may not want to defer billing if you believe this will increase your risk of not getting paid.

Personal Use Of Company Cars. If your company provides employees with company-owned cars, the company is required to include the value of the personal use of the car in the employees' W-2 income. However, this is not required if the employee reimburses the company for the personal use.

> **Planning Alert!** If your company does not report the employee's personal use as W-2 income and the employee does not reimburse the company for the personal use, the IRS says the company's deductions (for depreciation, gas, tires, insurance, etc.) are lost to the extent of the personal use. In addition, the IRS will include any unreimbursed personal use in the employee's income even if the company is not allowed a deduction for the personal use portion.

> **Tax Tip.** If the employee chooses to reimburse the company for personal use of the car, the obligation for reimbursement should be established ***on or before December 31st*** so the employee will not have income in one year and a deduction in the next. This can be accomplished by establishing a published policy for reimbursement of personal use. Furthermore, your company should obtain signed statements from employees listing their business and personal mileage for the company car.

FINAL COMMENTS

Please contact us if you are interested in a tax topic that we did not discuss. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. Our firm closely monitors these changes. In addition, please call us before implementing any planning ideas discussed in this letter, or if you need additional information.

> **Note!** The information contained in this material represents a general overview of tax developments and should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.

Disclaimer: Any tax advice contained in the body of this material was not intended or written to be used, and cannot be used, by the recipient for the purpose of promoting, marketing, or recommending to another party any transaction or matter addressed herein. The preceding information is intended as a general discussion of the subject addressed and is not intended as a formal tax opinion. The recipient should not rely on any information contained herein without performing his or her own research verifying the conclusions reached. The conclusions reached should not be relied upon without an independent, professional analysis of the facts and law applicable to the situation.