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TAX LETTER
Post April 15 Updates

2008 income tax filing season came and ended without any fanfare. However, what Congress did, in a rush, at the end of 2007 and early 2008 continue to provide sufficient pain and suffering or perhaps benefits to most of the American taxpayers. Here are some of them.

For AMT (Alternative Minimum Tax), Congress promised a permanent fix, but only gave us a temporary patch. Yes, we got an increased for 2007 AMT Exemption, $66,250 for joint filers and $44,350 for single taxpayers. What happened to 2008 and beyond ?

For direct Charitable Donation from IRA type accounts, Congress gave all qualify senior taxpayers an opportunity to do so for up to $100,000 tax free in 2007. But that is the end of it. No more for 2008 and beyond.

The Wash Sale Rule for stock and security usually disallow the loss from sale of either the stock or the security and repurchase the same or substantially identical stock or security within 30 days. The disallowed loss will then be added to the basis of the repurchased stock. Recently, in Revenue Ruling 2008-5, the IRS concluded that the loss upon sale of stock held in a non IRA account will also be disallowed, if the seller uses his regular IRA account to repurchase the stock within 30 days.

2007 was the first full year that Donee of vehicles must provide Form 1098-C to the Donor. Donor must base his or her deduction on this form 1098-C, and the Form must be attached with the Donor's tax return. In most cases, the donated vehicle was sold by the Donee charity. The selling price must be entered on form 1098-C and the Donor can only deduct the amount entered as selling price. However, this requirement was not properly understood and complied with by many small independent, qualified charities. As a result, the required Form 1098-C may not be attached as required.

In the National Taxpayer Advocate (NTA) annual report to Congress, the NTA identified an urgent need for Congress to authorize certain "Apology Payments" to taxpayers in cases where the acts of the IRS excessively burdens and/or harms the taxpayers. What do you think the NTA is trying to tell us ? (Note: NTA is an independent organization within the IRS created by an act of Congress).

Look at it from another angle, one may find certain benefits came out from this "rush" madness. The following are some of the examples.

IRC section 121 provides a $250,000 income exclusion to a qualified taxpayer for selling his or her principle resident. Under the old rule, a decedent's $250,000 exclusion could be lost unless the surviving spouse sold the home in the year of death. The newly enacted law preserved the exclusion for a surviving spouse for two more years. However, how many survivors will sell her home within 2 years after the death of her spouse ?

To deal with the current mortgage crisis and to help the taxpayers who lost their home because of foreclosure, the Mortgage Forgiveness Debt Relief Act was passed. Before this new law, when a homeowner lost his home due to foreclosure and the mortgage balance is greater than the value of his home, the different written off by the lender is treated as debt forgiveness income subject to income tax. The new law offers a temporary exemption to the recognition of debt forgiveness income for 3 years (2007, 2008 & 2009). The total amount could be exempted is $2,000,000 for a married couple, and $1,000,000 for a single taxpayer. Sounds good, what is the catch ? The catch is that the home must be the principle resident and the amount forgiven must qualify as "acquisition debt" or "construction and/or improvement" loan. In order words, if the home owner got into payment problem by refinancing for a higher amount and/or for equity loan, the debt forgiven would not be exempted for income tax purposes.

One last example is the economic stimulus tax refund of $600 or $300 per taxpayer. As long as your 2007 earned income, including social security retirement or disability payment and certain military benefit payment, equals to at least $3,000, you will qualify for the $300 refund. If your total taxable income is higher and your tax liability is $600 or more, you will receive $600 refund. Very good, what is the catch ? The catch is that your refund will be phased out at a rate of $0.05 per dollar of income above $75,000. In other words, if your income is more than $87,000, you will receive no refund. For a married couple the phase out income level is $150,000.