

TAX LETTER

Most Significant Tax Changes for 2011 and Beyond

Four new legislations having significant impact on our lives were signed by the President and became laws in 2010. They are the Health Reform Acts (P.L. # 111-148 and P.L. #111-152), the HIRE Act (P.L. # 111-147), the Small Business Jobs Act (P.L. # 111-240), and the Tax Relief Act of 2010 (P.L. # 111- 132). Together, these new laws made numerous changes to the Internal Revenue Code (IRC).

Among the changes, there are certain “benefits” and “programs” highly touted by the administration as keys to Energize our economy. However, behind all the noise are the least publicized changes which were designed to bring horrors to our lives. According to the administration, these horrible changes are needed to “pay” for the beneficial ones. In our opinion, the following are the most damaging changes.

(A) New Information Reporting

(1) New 1099 reporting requirement – Beginning 2011 and thereafter, payments made for business reasons for services, supplies and goods to any individual or entity cumulatively \$600 or more in a 12-month period must report those payments to the IRS using Form 1099. The exemption to file 1099 for Corporations had been eliminated. Therefore, regardless of the type of organization Form 1099 filing will be required. Penalty for fail to report can be substantial. (the Health Reform Act)

Further, this new reporting requirement is extended to rental business including real property rental. (the 2010 Tax Relief Act)

(2) New Foreign Financial Assets reporting requirement – This is in addition to the existing Foreign Bank Account reporting (FBAR). First, the rule under FBAR requires an annual reporting to US Treasury using Form TD 90-22.1 for all foreign bank accounts by US persons if and only if the aggregate highest amount in a 12-month period equal to or more than US\$10,000. The new rule requires, in addition to FBAR reporting, all US persons who have Foreign Financial Assets in any 12-month period aggregating to or more than US\$50,000 must prepare an annual disclosure

describing all Foreign Financial Assets and attach this special disclosure to the required annual income tax return, i.e. Form 1040, 1041, 1065, 1120, etc.). Further, the six year statute of limitation for the FBAR and this new reporting requirement is codified by the HIRE Act (P.L. # 111-147). Failure to comply may subject to substantial penalty.

Foreign Financial Assets are : (1) depository or custodial accounts at any foreign financial institutions, plus (2) the amount not held in accounts at a financial institution, including but not limited to (a) stocks or securities issued by foreign persons/entities, (b) any type of financial instruments or contracts held for investment which were issued by non US persons/entities, and (c) interest in a foreign entity and/or a foreign trust. (IRC Sec. 6038D)

(3) New W2 Information – All W2s issued for wages earned in 2011 and thereafter will be required to report the amount of health insurance premium paid by the employer for that particular employee. Therefore, employers must be getting ready to set-up their payroll system by all means to capture and report health premium amount paid on behalf of each individual employee during the calendar year on their individual W2 Forms.

For 2010 W2s, the employer has an option to include or not to include. The reporting will be mandatory for W2s issued for year 2011 and thereafter.

(B) All Other Key Tax Changes

For summary information regarding the key tax provisions made by these four new laws, please go to our web site (www.chochan.com) and refer to our earlier Tax Letters as follows:

- (1) key tax provisions in the Health Reform Act -- April 2010,
- (2) key tax provisions in the HIRE Act -- May 2010,
- (3) key tax provisions in the Small Business Jobs Act – October 2010, and
- (4) key tax provisions in the 2010 Tax Relief Act – December 2010.

Questions or follow-up discussions, please give us a call at 415-381-0681 or visit our web site: www.chochan.com.

Sincerely
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