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**2011 Year-End Tax Planning**

**Dear Client:**

Uncertainty over the fate of the expiring tax provisions makes year-end 2011 tax planning a challenge for many individuals and businesses. Fortunately, we know that certain tax incentives will be available through the end of 2011 and others through the end of 2012. Additionally, some traditional year-end tax planning strategies are valuable even with all the uncertainty.

In this letter, we have assembled a checklist of some year-end planning strategies for individuals and businesses. Every taxpayer's situation is different. Please contact our office so we can schedule a time to discuss your year-end tax planning in detail.

**Individuals**

**Income/deduction shifting.** Income and deduction shifting is a traditional year-end tax strategy that is worth a look at year-end 2011. However, one key complication is uncertainty over the individual income tax rates after 2012. We know that the individual income tax rates will be 10, 15, 25, 28, 33, and 35 percent for 2012. Under current law, the 10 percent rate is scheduled to expire after December 31, 2012 and the remaining rates are scheduled to revert to 15, 28, 31, 36, and 39.6 percent after December 31, 2012 (unless extended by Congress). As a result, some taxpayers may want to abandon the traditional strategy of shifting income into a future year and recognize income in 2011 or 2012 when the lower rates are available.

**Capital gains/dividends.** Reduced tax rates on qualified dividends and capital gains are scheduled to expire after December 31, 2012 (unless extended by Congress). Taxpayers need to carefully review when to recognize income from qualified capital gains and dividends to maximize their tax savings in 2011 or 2012.

**AMT.** For many individuals, year-end tax planning requires "running the numbers" for regular federal tax liability and alternative minimum tax (AMT) liability and this year is no exception. Taxpayers may want to explore if certain deductions should be more evenly divided between 2011 and 2012 and which deductions may qualify, or will not be as valuable, for AMT purposes.

**Gift tax exclusion.** Many individuals overlook gift-making as a year-end tax strategy. Under current federal law, the annual gift tax exclusion per recipient on which no gift tax is due is \$13,000 for 2011. Married couples may make combined tax-free gifts of \$26,000 to each recipient. Use of a "lifetime" estate and gift tax exclusion should also be considered for larger gifts. Tennessee separates recipients into two classes, Class A and Class B. The annual gift tax exclusion per Class A recipient on which no gift tax is due is \$13,000 for 2011 while for a Class B recipient the exclusion is a maximum single exemption of \$5,000 or \$3,000 per recipient.

**Big ticket purchases.** Taxpayers planning a big ticket purchase in 2012 may want to accelerate that purchase into 2011 to take advantage of the deduction for state and local general sales taxes. The deduction for state and local general sales taxes is scheduled to expire after December 31, 2011 (unless extended by Congress). Taxpayers may take the deduction for state and local general sales taxes in lieu of the deduction for state and local income taxes.

**Energy improvements.** In recent years, Congress has enacted a number of tax incentives to encourage homeowners to make energy efficient improvements to their primary residences. The Code Sec. 25C tax credit for certain nonbusiness energy property is scheduled to expire after December 31, 2011 (unless extended by Congress). The credit is complex; if you are considering installing energy efficient improvements such as windows, doors, heat pumps, and other items, please contact our office to determine if your purchase qualifies for the credit.

**More incentives.** More individual incentives scheduled to expire *after* December 31, 2011 include (not an exhaustive list):

- Employee-side payroll tax cut
- Above-the-line deduction for qualified tuition and related expenses
- Tax-free distributions from individual retirement plans for charitable purposes by individuals age 70 ½ and older
- Deduction for classroom expenses of qualified educators
- Parity for exclusion from income for employer-provided mass transit and parking benefits
- Premiums for mortgage insurance deductible as interest that is qualified residence interest
- Expansion of adoption credit and adoption assistance

## **Businesses**

**Form 1099 Reporting.** Business who pay someone who is not the business's employee \$600 or more for services provided during the year must file Form 1099-MISC with the IRS by February 28 and supply a copy to the service provider by January 31. Form 1099-MISC is generally not required for payments made to corporations, tax-exempt organizations, or government entities. Penalties for not filing with the IRS and supplying to providers the proper forms can range from \$30 to \$250 *per* Form 1099-MISC.

**Bonus depreciation.** Business taxpayers have a limited window in which to take advantage of 100 percent bonus depreciation (unless extended by Congress). One hundred percent bonus depreciation applies to qualified property acquired after September 8, 2010 and before January 1, 2012, and placed in service before January 1, 2012 (or before January 1, 2013 for certain longer-lived and transportation property).

**Code Sec. 179 expensing.** Business taxpayers also have a limited window in which to take advantage of enhanced Code Sec. 179 expensing (unless extended by Congress). For tax years beginning in 2010 and 2011, the Code Sec. 179 dollar limit is \$500,000 and the investment limit is \$2 million. The dollar limit for 2012 is scheduled to fall to \$125,000 (indexed for inflation at \$139,000) and the investment limit is scheduled to fall to \$500,000 (\$560,000 indexed for inflation). Keep in mind that Code Sec. 179 expensing is also allowed for off-the-shelf computer software placed in service in tax years beginning before 2012.

**Real property expensing.** After 2011, special expensing rules for qualified real property are scheduled to expire (unless extended by Congress). A taxpayer that places qualified leasehold improvement property, qualified restaurant property or qualified retail improvement property in service in a tax year that begins in 2010 or 2011 may elect to treat the property as Code Sec. 179 property and expense under Code Sec. 179 up to \$250,000 of the cost of the property.

**WOTC.** The Work Opportunity Tax Credit (WOTC) is scheduled to expire after December 31, 2011 (unless extended by Congress). The WOTC rewards employers that hire individuals from one of nine groups of targeted job seekers. Under current law, the WOTC applies to wages paid to qualified individuals who begin work for the employer before January 1, 2012.

**Research tax credit.** The research tax credit is designed to encourage businesses to increase their spending on research and development of new technologies. The 2010 Tax Relief Act extended the credit through December 31, 2011.

**Differential wage payments.** Employers may qualify for a tax credit for differential wage payments made to employees called up for military duty. Under current law, the credit applies to wage payments made through December 31, 2011 (unless extended by Congress).

**FUTA surtax.** The 0.2 percent FUTA surtax expired after June 30, 2011. As a result, the FUTA tax rate falls to 6.0 percent for the remaining six months of 2011 before any state unemployment tax credits are taken into account. The IRS has indicated it will provide guidance for employers. Our office will keep you posted of developments.

**Energy tax incentives.** A number of tax credits for alcohol fuels and biodiesel/renewable diesel will expire after December 31, 2011 (unless extended by Congress). Tax credit for construction of new energy efficient homes and manufacture of energy efficient appliances will also expire after December 31, 2011 (unless extended by Congress).

**More incentives.** More business incentives scheduled to expire *after* December 31, 2011 include (not an exhaustive list):

- Indian employment tax credit
- Railroad track maintenance tax credit
- Mine rescue team training tax credit
- Grants for specified energy property in lieu of tax credits
- Seven-year recovery period for motorsports entertainment complexes
- Special expensing rules for film and television production costs
- Expensing of brownfields remediation costs
- Exceptions under Subpart F for active financing income
- Percentage depletion for oil and gas from marginal wells

If you have any questions about the tax incentives we have reviewed and your 2011 year-end tax plans, especially if your personal or business tax circumstances have significantly changed from last year, please contact our office prior to December 31 to determine if a planning meeting is necessary. Also, visit our website at [www.jenningsclouse.com](http://www.jenningsclouse.com) for more information throughout the year!

Sincerely yours,

Jennings & Clouse, PLC