

DEO, LAMANNA, DEO & CO., PC
Certified Public Accountants
www.dldcpa.com

Patrick J. Deo, CPA, Cr.FA
pat@dldcpa.com
Anthony LaManna, CPA
tonyl@dldcpa.com
Michael J. Deo, CPA
miked@dldcpa.com

SMALL BUSINESS AND WORK OPPORTUNITY TAX ACT OF 2007

On May 25, 2007 President Bush signed into law a new tax act. The following is an outline of some of the provisions which have a broad impact:

1. “KIDDIE TAX”

As a result of the law change – it is really no longer a “kiddie tax.”

Prior to last year, the law states that if a child *under age 14* had unearned income it was taxable at the parent’s tax rate to the extent it exceeded certain thresholds (\$1,700 for 2007). Last year, the age was increased to children *under age 18* (effectively capturing children through high school). Under the new law, beginning in 2008, the “kiddie tax” provision applies to children who *are age 18 and under, or who are full-time students over age 18 but under age 24* (effectively capturing children through college).

This provision will have the impact, in many cases, of eliminating the ability of children to utilize the “zero percent” tax rate on capital gains in 2008, 2009, and 2010.

2. TAX RETURN PREPARATION STANDARDS AND PENALTIES

Certified Public Accountants have always been held to a high standard in the preparation of tax returns and assuring that tax positions would reasonably withstand challenges by the Internal Revenue Service. Unfortunately, not all tax return preparers were bound by the Certified Public Accountant standards. So – Congress and the President took action to “raise the bar,” so to speak, for all tax return preparers and for all types of returns (income, gift, estate, payroll, amended, etc.).

CORRESPONDENCE TO:
One Indian Road
Denville, New Jersey 07834
(973) 983-8880
Fax: (973) 983-8228

5 Cold Hill Road
Mendham, New Jersey 07945
(973) 543-2480

Effectively, under the new law and the Internal Revenue Service procedures, for all tax returns being prepared in 2008, an item cannot be put on a tax return or not reported unless:

- ... there is a reasonable belief that the tax treatment is more likely than not the proper treatment for “undisclosed positions.”
- ... there is a reasonable basis for the tax treatment of positions which are “disclosed” on the tax return.

Failure to comply with the new rules could mean penalties to the preparer of \$1,000 to \$5,000 or 50% of the “fee” paid to the preparer – whichever is higher. In other words, if the fee for preparing a tax return is \$400 and the Internal Revenue Service determines the new law was violated, the preparer will pay a fine of at least \$1,000. This penalty is in addition to the penalties assessed against the taxpayer.

Bottom Line – expect next year to provide more documentation to prepare your tax return and no ability for SALY (Same As Last Year).

3. HUSBAND AND WIFE BUSINESS

For tax years beginning after 2006, a husband and wife may elect not to file as a partnership if they are the sole owners of a business, both materially participate in the business, and file a joint tax return. Instead, all the income, expenses, deductions, etc. can be reported on their joint tax return in proportion to their ownership interest on separate forms Schedule C. This could simplify tax reporting for them.

4. BUSINESS PROVISIONS INCLUDE

- ... extension of the work opportunity tax credit.
- ... favorable changes for restaurants to calculate the “tip credit” as a result of the increase in minimum wages.
- ... modifications of certain S-corporation provisions dealing with ownership, calculation of income, ability for “electing small business trust” shareholders to deduct interest expenses on loans to acquire the stock and distribution rules.
- ... beginning in 2007, the ability to deduct up to \$125,000 of certain capital expenses in lieu of depreciation.
- ... for employment tax levies on or after November 23, 2007 the Internal Revenue Service may deny a “collection due process hearing” (CDP) if there was a previous CDP for unpaid employment taxes arising in the two year period prior to the tax period for which there is a tax levy.
- ... various pension administration related items.

Disclaimer: This e-mail represents a general overview of tax developments and should not be relied upon without an independent, professional analysis of how any of these provisions may apply to a specific situation. Any tax information contained in the body of this e-mail was not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.