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Announcements



Congratulations to **Karen Decker**, RKO's Tax Department Assistant, and **Rory O'Brion**, a Senior Accountant in RKO's Nonprofit Department, each of whom got married in November.

RKO welcomed **Jeffrey M. Raab**, CPA, MSA and **Lisa M. Dunbar**, CPA, MST in September as Tax Managers. They both have over 14 years of public accounting experience in taxation.

Our best wishes to you for a healthy and prosperous New Year. Thank you for your continued support.



Tax Updates

By **Jeffrey M. Raab, Tax Manager**

Enhanced Depreciation Deductions:

The largest tax saving opportunity for businesses in 2011 may be the enhanced depreciation deductions. Most of these deductions will become less favorable in 2012.

Bonus Depreciation: For qualified assets placed in service through December 31, 2011, the additional first-year depreciation deduction allowance is 100% (scheduled to drop to 50% in 2012 unless extended). Qualifying assets include new tangible property with a recovery period of 20 years or less and off-the-shelf computer software.

Consider purchasing and placing in service assets by December 31 to reduce your 2011 tax bill.

Section 179 Expensing: This deduction allows a 100% deduction for the cost of acquiring qualified assets, but is subject to different rules than bonus depreciation. For 2011 the expensing limit is \$500,000 and will decrease to \$139,000 in 2012. For 2011, the maximum annual expensing amount generally is reduced dollar-for-dollar by the amount of the 179 property placed in service during the year in excess of \$2,000,000. For 2012, the investment ceiling will be \$560,000.

Both of the depreciation deductions bring with them the challenge of determining if the increased 2011 deduction will prove beneficial over the long term. Taking the enhanced deduction in 2011 means forgoing deductions that would otherwise be available in future years. With tax rates scheduled to increase in 2013 businesses might save more by deferring the deductions.



Businesses should consult with their tax preparer to discuss if the enhanced depreciation deductions would benefit their business in 2011.

New for 2011, Form 1099-K (Merchant Card and Third Party Network Payments):

Effective in 2011 for VISA, Master Card, other credit cards, and PayPal type companies the Form 1099-K will be required if the payee had (1) gross reportable transactions greater than \$20,000 and (2) more than 200 transactions. The 1099-K discloses information on a monthly basis regarding credit sales. Business tax returns, starting in 2011, will have a line for debit and credit card sales that will be broken out from total sales.

Shareholder Loan Documentation:

Recently, increased importance has been placed on properly documenting shareholder loans. If shareholder loans are not properly documented, there is a risk that they could be deemed taxable distributions to the shareholder. The following factors are considered in classifying a shareholder loan: (1) the promise to repay was evidenced by a note; (2) interest is charged; (3) a fixed repayment schedule is established; (4) collateral was given to secure payment; (5) payments are made on the note; (6) borrower has a reasonable prospect of repaying the loan and the lender has sufficient funds to advance the loan; and (7) the parties conduct themselves as if the payment was a loan.

Please consult with your tax preparer for a review of your company's loan documentation to make sure the loan is properly documented.

Tax Updates.....	1
Automatic Enrollment Retirement Plan.....	2
RKO In The Community.....	2
Focus on Not-for-Profits.....	3
Announcements.....	4
Editor: Peter Way	

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Is It Time To Consider An Automatic Enrollment Retirement Plan For Your Organization?

By Peter Way,
Senior Manager

If you are an employer sponsoring a retirement plan for your employees, you may well be aware of the struggle involved in getting eligible employees to participate. This is oftentimes true even for plans that provide employer matching contributions, in which the organization typically matches 50 cents to a dollar for every dollar contributed by the worker, up to a set maximum of perhaps 3% to 6% of the individual's salary (or in some cases a dollar limit). Common sense might dictate that workers would not want to miss out on this "free money" contributed to their individual retirement accounts by their employers. However, many organizations, particularly those employing significant numbers of younger and lower income employees (who generally have been less likely to participate), still experience disappointingly low enrollments in their plans.

Many employers have found that the best way to encourage employees to save for retirement is through establishing an automatic enrollment 401(k) or 403(b) plan. In such an arrangement, employees are automatically enrolled in the plan when they become eligible to do so. The plan document specifies the percentage of an employee's wages that will be automatically deducted from each paycheck for contribution to the plan. Employees then have the right to opt out of automatic contributions, or to contribute at a different percentage of their pay.

These automatic enrollment plans have increased considerably in popularity in recent years, as studies show a significant improvement in participation levels for organizations adopting such a plan. A 2010 Vanguard analysis of 2,000 of its 401(k) plans (with more than three million participants) showed an 82 percent participation rate for its automatic enrollment plans, compared with a 57 percent level in plans with voluntary enrollment. The results are even more dramatic with workers under the age of 25, with 72 percent participating under automatic enrollment, compared to just 18 percent who take action on their own to sign up.

Many employers hesitate to establish an automatic enrollment retirement plan due to concerns about potential employee opposition. However, studies appear to show that support among those who remain in the plan is nearly

universal, while even those employees who opt out also approve of the provision. Employees have overwhelmingly indicated an appreciation of their employer's efforts to encourage a mechanism that started them on the path to begin saving for their retirement earlier than they may have done so otherwise.

It is difficult to justify any additional costs to an organization in today's economy. With that said, the potential increased costs in the form of additional matching expenditures associated with implementing an automatic enrollment retirement plan are oftentimes less than expected due to the relatively low typical rates of required employee withholdings and related matches. In any event, many employers are simply driven by an overriding sense of corporate responsibility to help employees adequately save for retirement despite any increased costs incurred, and later come to find additional value in the form of attracting and keeping talented employees who appreciate these efforts.

For these reasons, establishing an automatic enrollment retirement plan may make sense for those employers looking to increase retirement plan participation levels within their organizations.

RKO In The Community By Peter Way, Senior Manager

RKO continues to be involved in a variety of local community projects and activities, including:

- Basketball at Long Creek Youth Development Center: Throughout the cold late Fall and Winter months a group from RKO is spending an evening every few weeks playing basketball with the young men and women at the Long Creek Youth Development Center.
- Breakfast at Preble Street Resource Center: Preble Street serves a warm and nutritious breakfast to 250-400 people every day of the year. In October a team of volunteers from RKO helped to prepare, serve, and clean-up during a weekday morning 7 - 10 am shift.
- Salvation Army Kettles: Volunteer bell ringers are an integral part of the success of The Salvation Army's annual Kettle Campaign. RKO employees volunteered at a local kettle site on two Saturdays in December.
- Adopting kids for holiday gift giving through Youth and Family Services.

These are rewarding experiences and we encourage you to contact these and other local nonprofit organizations to see how you can help!

Focus on Not-for-Profits - Fiscal Agency and Fiscal Sponsorship

By Peter Hall, Manager

The current uncertain economic environment, coupled with a growing perceived need for services and resources often provided by non-for-profit organizations, has many groups interested in forming not-for-profit organizations and obtaining tax exempt status looking for ways to mitigate the risks and costs of such an undertaking while still being able to solicit and accept the financial support needed to pursue their not-for-profit purposes. In other cases, existing tax-exempt entities may wish to join forces in some fashion to pursue some common tax-exempt mission, but may not find it economical to form a separate tax-exempt organization. While there are a number of strategies which may be of use in such circumstances, including collaborative endeavors and joint ventures, in this discussion we will focus on the use of fiscal agency and fiscal sponsorship arrangements.

Most tax-exempt charities obtain recognition as such by filing Form 1023 with the Internal Revenue Service. This process can be time consuming and costly, depending on the nature of the entity, planned activities and other factors. Once the IRS rules on this application and either grants or denies the organization tax-exempt status, such ruling will be effective back to either the date of the organization's formation or the date of submission of the application, depending on specified factors. During the period of time in which an organization's application is pending, it may solicit and accept donations with the caveat that while such donations will be treated as deductible to the donor if the organization's application is granted, they will be treated as non-deductible if the application is ultimately denied.

At the same time, fledgling organizations may find that they lack the administrative infrastructure needed to effectively manage their financial affairs. Moreover, some new organizations may perceive a "credibility gap" when soliciting grants from foundations and similar funding sources, a gap which might be narrowed by affiliation with an established not-for-profit. In such cases, the organization may find it worthwhile to pursue either a fiscal agency or fiscal sponsorship arrangement with another tax-exempt entity.

In a simple fiscal agency, one not-for-profit organization agrees to act as a fiscal agent for another group or organization, and as such the agent agrees to hold funds and other assets for the principal and to disburse monies solely at the direction and discretion of the principal; importantly, the agent does not participate in the direction

or decision-making of the principal. Its duties are, therefore, purely administrative in nature. In this situation, while the involvement of the agent may serve to address administrative and credibility needs of the principal, the tax-exempt status of the agent provides no protection to the new organization. Thus, the income tax status of the principal as well as the tax-deductibility of the donations it receives will ultimately hinge on its obtaining its own tax-exempt status. On the other hand, donors may feel more confident that their donations will, in fact, be used by and for the principal organization, as under such an arrangement, the fiscal agent exercises no discretion as to the use of the funds it receives on behalf of the new entity.

If, however, the new organization attaches a higher value on ensuring the tax deductibility of the donations received for its use, it may seek a fiscal sponsorship with an established tax-exempt entity. This type of arrangement is similar to the fiscal agency described above, with the notable difference that here the fiscal sponsor does exercise discretion and participate in the decision-making relating to the use of the funds received on behalf of the recipient organization. Accordingly, donations received, while being earmarked for the recipient organization, must be subject to some level of direction by the sponsor. By doing this, the tax-exempt status of the sponsor extends to shield such donations as well as the activities of the organization being sponsored. This more active involvement in the fledgling organization by the sponsor may also add to the credibility enjoyed by the new entity as it solicits grants and other funding.

Whichever of the above approaches is chosen, it is critical that the arrangement be subject to a written agreement. This agreement should spell out all particulars of the relationship, both substantive as well as procedural, to protect both parties and to lessen the risk of misunderstanding. Additionally, the nature of the relationship should be transparent to outsiders as well, especially potential donors. Well planned and thought out, fiscal agencies and fiscal sponsorships can thus play a vital role in assisting new organizations during their critical early stages.

