

Thomas Judy & Tucker, P.A.

CERTIFIED PUBLIC ACCOUNTANTS

The Accountant's Corner

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Business and Personal Use of Autos— What You Need To Know

The IRS, when auditing business clients, is now aggressively looking for mileage logs and adequate documentation to support auto expenses. When substantiation cannot be produced, the IRS can deny all deductions or create additional wage income to employees. We want you to be aware of your record-keeping responsibility when it comes to company vehicles.

Company Owned Vehicles Used by Employees

Employers oftentimes allow their employees to drive company owned vehicles as a fringe benefit. This is an acceptable practice, but you may not know that the value of the employee's personal use must be included in their W-2. Keep in mind that the employees' commute to and from work is considered personal use. There are three ways of calculating the value of personal use:

Cents Per Mile: Personal use is valued on a cents per mile basis, based on IRS annual figures (50 cents per mile in 2010). This can only be used for

vehicles valued at less than an amount published annually by the IRS (passenger cars valued at \$15,300 and trucks valued at \$16,000 for 2010).

Lease Valuation Rule: Personal use value is based on the amount an employee would pay to lease a comparable vehicle for a period similar to the period the vehicle is available for an employee's use. The IRS provides an annual lease valuation table based on the auto's fair market value. The annual lease amount is then multiplied by personal use percentage. The personal use amount is included in the employee's W-2.

Commuting Valuation: Employees may treat all use of auto used to commute as business if the employer includes a safe harbor amount of \$1.50 per one way commute (\$3 round trip) in an employee's W-2. This method cannot be used by controlled employees such as directors, greater than 1% shareholders, etc. This may be the most practical, and potentially advantageous way of

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Non-Profit Fraud Seminar to be Held October 27

Fraud and potential misappropriation of assets is a threat that nearly every company faces in some way. Non-profit organizations are no different. Have you and your organization taken the necessary steps to prevent fraud or detect those transgressions if it has already occurred?

Thomas, Judy and Tucker P. A. will be sponsoring a FREE in-depth seminar on "Protecting Your Company's Assets: Fraud Detection and Deterrence." This seminar will be held at Brier Creek Country Club on Wednesday, October 27th from 8 a.m. until 12 p.m.

Jay Sharpe, a senior audit manager with Thomas, Judy and Tucker P.A., will be leading the seminar. Jay is a certified public accountant and a certified fraud examiner with over ten years experience working in fraud and forensic accounting.

Pre-registration is required for attendance and a Continental breakfast will be served prior to the event. CPE credit will be given for those CPAs who attend the event. If you and/or a member of your organization would like to attend, please contact Carol Wilson (Carol.Wilson@tjtpa.com) at 919-571-7055 by October 15, 2010.



North Carolina Annual Report Changes

The North Carolina General Assembly recently passed legislation which changed the filing requirements for business corporation and limited liability company annual reports.

Business corporation annual reports are now due on the fifteenth day of the fourth month following the close of the corporation's fiscal year. Previously they had been due on the fifteenth day of the third month following the close of the year. In addition, the annual reports may be extended along with the income tax return to the extended due date of the tax return.

Limited liability company annual reports are still due on April 15th of each year. However, an entity no longer has to file an annual

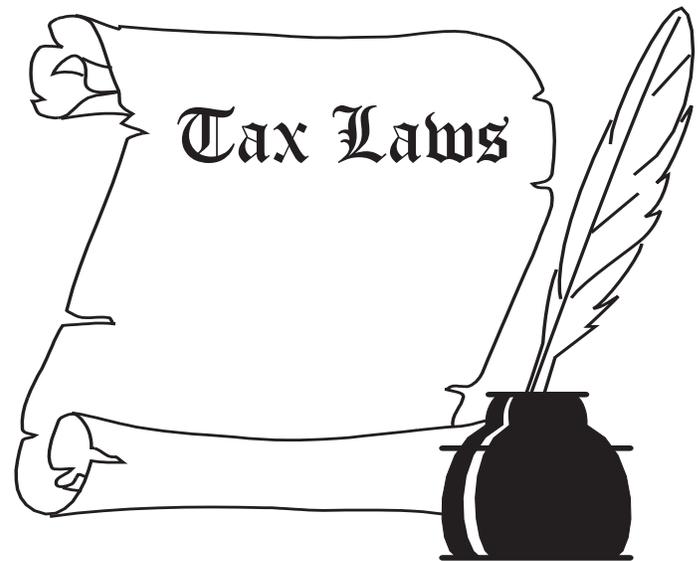
report in its first year. The first annual report for an LLC is now due by April 15th following the year in which the company filed its articles of organization with the Secretary of State. Due to this change, companies which filed an annual report in their first year (retroactive to September 1, 2001) and have filed a report for each year thereafter will not have to pay the annual report fee when they file their report due April of 2011.

One additional change for LLC's is that only pre-populated forms pulled from the Secretary of State website and online filing will be the only filing methods accepted in 2011 and thereafter. No forms generated by tax software packages will be accepted.

Increase in Dividend Tax Rates May Provide Tax Planning Opportunity

The expiration of the 2001 Tax Act at the end of this year presents planning opportunities for owners of closely-held corporations. At present, the maximum tax rate on dividend income for all taxpayers is 15%. However, this rate is set to increase to the taxpayer's ordinary income rate beginning in 2011. The maximum ordinary income rate tax rate in 2011 is scheduled to be 39.6%. In addition, beginning in 2013, individuals with modified adjusted gross incomes over \$200,000 (\$250,000 if MFJ) will be subject to an additional 3.8% Medicare surtax on their investment income to the extent that their modified adjusted gross income exceeds the \$200,000/\$250,000 threshold. Owners of closely held C-corporations may choose to accelerate the timing of their dividends and take more at the end of 2010, rather than in 2011 and beyond. Obviously, Congress has the authority to extend the current rates into 2011 but they have not chosen to do so as of the present time. We will keep close watch on any potential changes to the dividend tax rate as 2010 draws to a close.

Please feel free to contact our office if you have any questions about these changes and the timing of dividend payouts.



Business and Personal Use of Autos

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calculating personal use if you are not able to obtain other information from the employee.

Standard Mileage Rate vs. Actual Expenses

Business deductions relating to driving and maintaining a car can be computed using actual expenses or the standard mileage method. The actual expense method, if adopted the first year the car is placed in service, cannot be switched to the standard mileage method. If you start with the standard mileage rate method, you are allowed a one-time switch to the actual expense method.

For 2010, the standard mileage rate for all business miles driven is 50 cents per mile. Depreciation, insurance and maintenance are built into this rate. In addition to the 50 cents per mile, you are also able to deduct the business portion of expenses for interest, parking and personal property taxes.

Actual car expenses include gas, oil, repairs, insurance, depreciation, interest, taxes, licenses, parking and tolls. If the vehicle is used for

both business and personal, only expenses attributable to business or income production are deductible.

Substantiation

The IRS has made it clear that taxpayers who are taking business deductions for automobiles must be keeping auto logs. The log must include the mileage for the taxable period, date of each business use and the business purpose. For actual expenses, a mileage log helps establish business use percentage. Taxpayers should retain receipts, invoices and other documentation to show cost and establish the identity of the vehicle for which the expense was incurred.

As your CPAs, it is our job to inquire of business use for your vehicles each year and to adjust auto expense accordingly. It is ultimately the taxpayers' responsibility to substantiate business use.

If you have any questions or need help calculating personal use in W-2s, please give us a call.

Taxpayer Penalties for Failure to File

One of the many 2010 IRS tax tips available in the Newsroom at www.irs.gov (Tax tip 2010-51) reminds taxpayers and tax professionals that the failure-to-file (FTF) penalty is generally more than the failure-to-pay (FTP) penalty. Thus, taxpayers who cannot pay the entire tax owed should still file a tax return and explore other payment options.

The basic FTF penalty is 5% of the unpaid tax for each month or part of a month that a return is late, not to exceed 25% of the unpaid tax, with a minimum FTF penalty (the lesser of \$135 or 100% of the net amount due) applicable to returns not filed within 60 days of the

due date, including extensions. The FTP penalty is ½ of 1% of the unpaid tax for each month or part of a month after the due date that the tax isn't paid, up to 25% of the unpaid tax.

If the FTF and FTP penalties both apply in any month, the 5% FTF penalty is reduced by the FTP penalty. However, if a return is filed more than 60 days after the due date including extensions, the minimum penalty is the lesser of \$135 or 100% of the unpaid tax.

There is no penalty for filing a late return qualifying for a refund, or if the failure to file (or pay) on time was due to reasonable cause and not willful neglect.

Financial Tools at Your Fingertips

The Thomas, Judy & Tucker website offers a variety of financial tools and calculators which can assist you in your business and personal financial decisions. Under the Resource Library tab on the front page of our website, you will find links to the applicable federal rates, tax calendars, and financial calculators. These financial calculators can assist you in retirement planning, loan calculations, tax estimation and even figuring out how long it will take you to save a million dollars. With interest rates so low at the present, many of our clients are considering refinancing their mortgages. Within this page, there is a mortgage calculator to show you how much you will be saving if you chose to refinance at a new rate.

We also provide useful links to the websites of the IRS, the NC Department of Revenue, the Secretary of State as well as a variety of tax and financial organizations.

Please feel free to take a couple of minutes to check out these useful features of our website and do not hesitate to contact us if you have any questions.

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Shifting Tax Credits for Education

Have you ever longed for the day your children are not claimed as dependents on your tax return? For college age dependents, this could happen sooner than you think.

Parents who receive no tax benefit from education expenses incurred on behalf of their child may choose not to claim that child on their tax return and allow the child to take the credits on their own return. Parents may choose not to claim the child as a dependent for several reasons. One, both the Hope Credit and the Lifetime Learning Credit are phased out for married filing joint taxpayers whose income exceeds \$116,000. The American Opportunity Credit has higher phase-outs, but is scheduled to expire in 2010. Additionally, no education tax credits are allowed for taxpayers whose filing status is married filing separate.

If a student is claimed as a dependent, only the parent may claim the education tax credit for the student's qualified tuition and related expenses, regardless of who actually pays the expenses. However, if a parent is eligible to, but does not, claim the student as a dependent, only the student may claim the education tax credit for the student's qualified tuition and related expenses. Keep in mind that even if a student files his or her own return, there is a rule that states the child cannot claim a personal exemption for himself or herself if the parent is eligible to, but chooses not to, claim the child as a dependent.

Also keep in mind that if you pay the educational expenses for someone who is not your dependent (such as a grandchild), you cannot claim any education credits. Please contact our office if you have any questions about education tax credits or dependency issues.

New Faces at Our Firm

Thomas, Judy and Tucker P.A. is proud to announce several recent new hires. Chris Morse, CPA moved down to the Raleigh area from upstate New York and has joined our audit team. Jennifer Tavares has joined our tax team and will be one of the Quickbooks specialists in our firm. After working as an intern with us for the past three summers, Jacob Allen has graduated from the MAC program at N.C. State and joined our firm as a full-time employee. Finally, we are excited that intern Glenda Diaz will be joining us in a full time role after she finishes her undergraduate degree from N. C. State in December. We are very proud to continue our growth as a firm through the addition of these employees.

Please note that this newsletter was sent to many of our clients via email in addition to the regular print version. If you would prefer not to receive the email version, please contact Carol Wilson (carol.wilson@tjtpa.com) at our office to take your name off the email list. If you would prefer to only receive the email version, please contact Carol and we will adjust our mailing list accordingly.