

2013 Business Tax Matters Newsletter

Yes it is true... an entire year just passed us by. There are some important items we would like to share with our business clients relating to both the end of 2013 and beginning of 2014. We urge you to read this business newsletter completely as there are some required actions that may need to be accomplished as this year comes to an end.

Mileage Rate: The IRS mileage rate is actually dropping a half cent in 2014 to 56 cents per mile. We have attached a mileage worksheet to this newsletter. We are requiring this worksheet be completed by our business clients for any vehicles that are used for both business and personal purposes. Please return it to us with your year-end accounting materials.

Tax Court Case: Here is a reason to keep accurate mileage records. In Tax Court case (Mogbo 2013-16), taxpayer claimed business mileage of 28,482 business miles for a deduction of \$15,171. For substantiation, Mogbo provided only an appointment book and MapQuest printouts. The book had no names in it and no description of the business purpose. The mileage deduction was tossed out, and the taxpayer had back taxes, interest, and accuracy-related penalties, which can amount to 20% of the underpaid taxes. Ouch.

Family Member Employees: While we are on court cases, there was another case that disallowed a deduction for wages to a family member where there was no record of hours worked or services provided, no employee file like there would (should) be for other employees, and possibly unreasonable pay for the type of services rendered. So this is just a reminder to treat family employees like unrelated employees to secure the wage deduction.

Sales and Use Tax: In other court action, two separate cases in separate industries made those industries or professions take notice of “grey” areas in the sales tax laws. Long standing practices of many in those businesses were thrown upside down with respect to what is taxable for certain purchases (use tax) or sales (sales tax). With that came the threat of having back taxes assessed. This just opens our eyes as to how many businesses may have assumed their sales and use tax practices are proper... since this is “how we have always done it”. We encourage you to review your business transactions with regard to this issue and let us know if you would like to discuss any perceived gray area possibilities. Just one more thing with this issue: The registration for sales or use tax, or the reporting of such on an annual tax return, even if a very small amount, starts the statute of limitations running. So if you find you “only” purchased a \$100 item from outside Michigan, for example, report the \$6 of use tax and start the statute running.

Michigan Annual Reports: Over the past few years, we have had a couple situations where clients have not filed their Michigan Annual Reports. They may have misplaced the form one year, not filed, ignored notices, and then stopped getting the forms. Once a couple of years have not been filed, the state will dissolve the corporation or LLC. To be reinstated, the corporation must file the missed years (and the fee jumps from \$25 for a timely filed return to \$75 per year for a late filed return). Also, the business name is no longer protected and another new business may utilize that name. We stopped preparing these for clients over a decade ago because they just needed to be signed (if there were

no changes during the year), dated and \$25 sent in... we do put a letter in each year-end business tax return explaining this. To check the status of your corporation or LLC, go to: http://www.dleg.state.mi.us/bcs_corp/sr_corp.asp

Personal Property Taxes: Michigan has passed a law that will reduce or eliminate personal property taxes for most businesses over time. For smaller companies, if the assessed value of personal property (equipment, furnishings, etc.) is less than \$40,000, the business can file an affidavit stating that fact rather than a personal property tax statement (and be exempt from personal property taxes). Form 5076 is used for this purpose and is due each year on February 20. The form can be found at the following link: http://www.michigan.gov/documents/treasury/5076_439273_7.pdf

And... for some deeper fare, please see the items below. The second item below is a requirement that businesses should address as the 2013 tax year comes to a close.

Multi-State Activities: As our economy becomes more and more mobile, many businesses are finding success in expanding out of Michigan in pursuit of new customers and new markets. While this pursuit can provide a wealth of new opportunities, it is important to remember that new markets often require new filing requirements. As States look to boost sagging revenues, many have stepped up enforcement activities on out-of-state businesses that have ventured into their jurisdiction. Compliance requirements vary from state to state and are continually changing, but can also provide planning opportunities. If you have multi-state activities, please contact us to discuss how it may impact your business.

Final capitalization Regulations: The much anticipated final regulations related to the capitalization of amounts paid to acquire, produce, or improve tangible property are finally here! You can sit back down now, I'll hold for applause. All kidding aside, this fourth and final attempt by the IRS to formalize regulations have been almost 10 years in the making. The final regulations will have far-reaching implications and will affect almost all business taxpayers. The upside to these regulations is that they have provided a de minimis safe harbor that will apply as long as certain requirements are met. The downside is that those taxpayers who do not meet the requirements could face significant compliance and financial consequences.

The de minimis safe harbor will apply to an amount paid during the tax year to acquire or produce a unit of property, or acquire a material or supply, if: (1) the taxpayer has at the beginning of the tax year written accounting procedures treating as an expense for accounting purposes amounts paid for property that either costs less than a specified dollar amount or has an economic useful life of 12 months or less; (2) the taxpayer treats the amount paid for the property as an expense; and (3) the amount paid for the property does not exceed \$500. There are separate rules for companies that require audited financial statements.

Qualifying under the de minimis safe harbor will enable the taxpayer to currently expense amounts paid for property as opposed to capitalizing and depreciating them. If, however, the taxpayer does not qualify under the safe harbor provisions, capitalization will be the only acceptable treatment for amounts paid, without regard to the dollar value of the item. We recommend contacting us with any questions to ensure compliance with the new regulations and favorable tax treatment in 2014 and beyond. We have a sample statement on our website home page that may be used as a guide to developing this statement.

Thank you for allowing us to serve you. Don't forget our updated website for tax planning letters, resources, and much more, at: www.gsgcpas.com