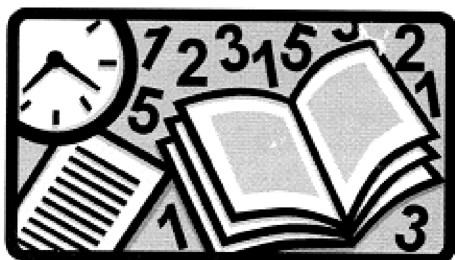

CLIENT NEWSLETTER

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THE BUFFETT RULE!

As part of the Tax and Deficit Reduction proposal advanced by the administration, households making over $1-million annually should pay a comparable share in taxes as middle-income families. This arose, of course, from Warren Buffett's declaration that he pays a lower rate of tax than his secretary. He was referring to the cumulative percentage of tax burden, when employment taxes (FICA) and income taxes are combined and compared to overall gross income. Earned income is taxed more vigorously than capital gains and social security taxes are not assessed on earned income in excess of $106,800. More income above the social security wage base makes the overall impact a miniscule percentage. Whereas, for your middle income earner, it's always 6.2% (except this year, when it's 4.2%). Ironically, Alternative Minimum Tax was created to achieve this goal.

Congress would determine how, or if, to implement the Buffett Rule. Interestingly, this tax increase proposal applies only to incomes over $1-million. Increases to household incomes for $250,000 or more would be impacted by proposed deduction limitations.

Cell Phone Conundrum

Employer-provided cell phones are officially considered tax-free fringe benefits by the Internal Revenue Service. The Service has given up on the battle to call the arrangement a taxable benefit, or requiring workers to keep a log of personal calls (and time) made on the devices. The only stipulation is that companies give the phones to workers primarily for business reasons.

The same thinking applies to situations where employers reimburse for the business use of personal phones. The reimbursements are not taxed to employees if the use of the phones is reasonably related to the firm's business needs and the amounts paid are not unusual or excessive.

- *The Kiplinger Tax Letter*

Supreme Court Issues

Now that the Supreme Court is back in session, the administration has requested that it take up consideration of the Affordable Health Care Act which has been overturned in the 11th Circuit Court. This is the only Circuit Court that has not upheld the law, and rather than appeal, the Justice Department is seeking to have the Supreme Court make a final judgment. Part of the Health Care act is a tax credit used by small employers to subsidize the cost of providing health insurance to their employees. With the rates charged for health insurance premiums, this has been a big benefit where applicable.

The other tax issue pending on the Supreme Court docket is whether the IRS can assert a six-year statute of limitations to audit your tax return. So far, only the 7th Circuit Court has agreed. In the 4th, 5th, 9th and federal court, the IRS has lost and is limited to the current three-year statute.

Circumstances in which the IRS has longer to audit and assess taxes apply with a "substantial understatement of income." This means 25% or more of your income is omitted on the return filed. As in Al Capone's case, his failure to report revenue from his bootlegging operations gave the IRS the right to look at six years' worth of returns and determine he was criminally negligent. IRS wants to include any tax situation which has the effect of a gross income understatement. You sell an investment item for $1-million, and claim basis in the item of $750,000, so your taxable gain is $250,000. If your actual basis is $50,000; your taxable gain is $950,000. IRS is looking for the latitude to have more time to review basis calculations.

Getting returns analyzed to determine if situations exist that could generate a 25% or more income increase and figuring if the basis information is solid or debatable takes more time than currently allowed.

DEALING WITH DEBT

One of the critical criteria for contemplating retirement is that you will entire that period of your life debt free. Without mortgage, car payments, student loans and credit card monthly obligations, anticipating and controlling your monthly cash flow becomes much more manageable. Ideally, you can satisfy these outstanding obligations before the moment of retirement so you have a period of time where you can really stockpile some funds.

Develop a spending plan. How much extra principle do you need to pay in order to meet your planned timeline? If you can't free up additional funds to put towards debt satisfaction, look for places in your monthly expenses where you could cut back.

Leave your credit cards at home. Pay with cash whenever possible so you are forced to make the "spend/don't spend" decision with ***your*** money on the table.

Monitor your bank account balance. Don't get blind-sided with overdraft fees. Pay your credit card bills timely because you will be assessed a late payment fee that not only costs you more, but is also subject to interest when the balance isn't paid in full.

Pay off your balance. The first time you fail to pay off the full amount on your credit card, you start accruing interest on the unpaid balance. In the month you finally do pay off the outstanding balance, interest is still assessed for the period of time the balance was open.

New disclosure laws have forced credit card billers to include an analysis of the length of time it will take to satisfy your obligation if you pay only the minimum payment. One glance at the totals listed should permanently discourage anyone from relying on the least amount due. This amped up life span for credit card debt can make this obligation a real retirement killer – especially since the thrill of whatever was purchased is not even a distant memory.

DATELINE: IRS (IRS Tax Tip 2011-73)

Taxpayers should be wary of any of the following:

- Fictitious claims for refunds or rebates based on excess or withheld Social Security benefits.
- Claims that Treasury Form 1080 can be used to transfer funds from the Social Security Administration to the IRS enabling a payout from the IRS.
- Unfamiliar for-profit tax services teaming up with local churches.
- Home-made flyers and brochures implying credits or refunds are available without proof of eligibility.
- Offers of free money with no documentation required.
- Promises of refunds for "Low Income – No Documents Tax Returns."
- Claims for the expired Economic Recovery Credit Program or Recovery Rebate Credit.
- Advice on claiming the Earned Income Tax Credit based on exaggerated reports of self-employment income.

In some cases non-existent Social Security refunds or rebates have been the bait used by the con artists. In other situations, taxpayers deserve the tax credits they are promised but the preparer uses fictitious or inflated information on the return which results in a fraudulent return.

Flyers and advertisements for free money from the IRS, suggesting that the taxpayer can file with little or no documentation, have been appearing in community churches around the country. Promoters are targeting church congregations, exploiting their good intentions and credibility. They build false hopes and charge people good money for bad advice. In the end, the victims discover their claims are rejected or the refund barely exceeds what they paid the promoter. Meanwhile, their money and the promoters are long gone.

Is There a Retirement Age?

Wracking my brain, I can't remember when someone assured me they would retire at age 55. In a survey by the *Employee Benefit Research Institute*, 20% of workers claim they expect to retire later than originally planned. The reasons for increasing the working years include the poor economy, lack of faith in Social Security, changes in the employment situation and finances. Even in the last year, people who plan to work during retirement has risen from 70% to 74%, despite the fact only 23% of retirees are working currently. It's even more critical to love your work!

OFFICE NEWS

How fast the time goes! The year is winding down already, but with a busy agenda. Events this quarter are:

- October 20 – 22: Tax Practice Shareshop
- Nov 19 – 27: Thanksgiving with family
- Nov 28 – 29: 2011 Tax Update
- December 23 – 26: Christmas Holiday
- December 31 – January 2: New Year's

and we all know what comes next…..

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