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By Laura Gregoriadis and Jon Farrell: Top tax planning ideas to take advantage of now

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It is impossible to know how the political drama in Washington will play out and what that means for our income taxes. Many tax provisions are set to expire by the end of the year or in the near future. The year is almost over, but there is still time to take advantage of some of the tax incentives for 2011.

Accelerated depreciation and section 179 expense

During 2011, property acquisitions with a statutory life of 20 years or less may qualify for 100% bonus depreciation. Property such as furniture, fixtures and equipment can be expensed on your 2011 tax return if purchased and placed in service by December 31, 2011. In the real estate industry, we see the biggest tax savings with qualified leasehold improvements. If tenant build-outs are pursuant to a lease and are not structural improvements, they may meet the definition of qualified leasehold improvement and be fully expensed on your 2011 tax return. If you are planning any fixed asset purchases or tenant build-outs near year end, you could significantly decrease your 2011 tax liability by placing them in service by December 31, 2011.

During 2011, the maximum section 179 deduction is increased to $500,000. Some property additions, if used in an active trade or business, may qualify to be expensed under section 179, subject to a property-placed-in-service limit and a taxable income limit. The definition of qualified property was expanded during 2010 and 2011 to include some real property. With the enhanced bonus depreciation rules, the 179 deduction may seem irrelevant, but in some cases it may be more beneficial to elect out of bonus and take the 179 deduction instead. For instance, if the taxpayer has net operating losses (NOLs) that are set to expire in 2011 and taking bonus depreciation would put them in a taxable loss, the taxpayer would not receive any benefit from the NOLs. If they were to elect out of bonus and take a 179 deduction only to the extent of taxable income after applying the NOLs, they would receive the benefit of the NOL and the unused 179 deduction would carry forward to future years.

Lifetime gift exclusion and generation skipping tax exclusion

Many people are focused on wealth management and succession planning right now and with good reason. The lifetime gift exclusion and generation skipping tax exclusion amounts have been increased to $5 million through December 31, 2012. Assets that would otherwise be subject to estate taxes at 35%, or 70% if passed through your children's estates to grandchildren, can be transferred tax free. There has been a lot of speculation about whether Congress will modify this provision in the very near future. To ensure that you are able to benefit from this tax incentive, you should act quickly.

Section 179D credit for energy efficient buildings

Property placed in service by December 31, 2013 that saves at least 50% in energy costs may be eligible for a 179D deduction at a maximum of $1.80 per s/f. There are three components to the building: interior lighting; heating, cooling, ventilation, and hot water; and the building envelope. Each component must qualify to achieve the maximum benefit of $1.80 per s/f. To qualify, the building owner or designer must obtain a certification that the minimum energy savings will be met. There are specific guidelines for qualification, but if you have had significant renovations in 2011 or plan to before December 2013, it may be beneficial to explore this provision.

These are only a few tax planning ideas, but as with any tax planning it is important to understand the impact on the taxpayer in the current year and in future years. For instance, when considering to take a 179 deduction on a partnership return it would be important to know if a corporate partner had net operating losses that were set to expire. Also, if a taxpayer anticipates being in a higher tax bracket in future years it may not be beneficial for them to accelerate expenses and should consider electing out of bonus depreciation. Be sure to consult a tax advisor with expertise in these areas. Jonathan Farrell, DiCicco,Gulman & Co LLP

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