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URISH POPECK & CO., LLC

Accountants and Consultants

Re: 2012 Year-End Tax Planning for Businesses

To Our Valued Clients and Business Contacts:

End of year tax planning for businesses continues to be complicated by uncertainty over the future availability of many tax incentives. The 2012 year end is no different. In 2010, Congress extended many business incentives for one or two years. These incentives are about to expire. In addition, many of the "Bush-era" tax cuts are scheduled to sunset at the end of 2012. It is unclear if Congress will provide further extensions as they debate across-the-board spending cuts scheduled to take effect in 2013. In addition, businesses must prepare to comply with healthcare reform. This combination of events provides tax planning considerations unique to 2012 that requires a multi-year strategy taking into account a variety of scenarios and outcomes. We have identified below some of the significant areas that are scheduled to change in 2013. With the ongoing negotiations in Washington D.C., certain of these items may change. Please know that we are monitoring the situation and will communicate the relevant updates/changes as soon as they become available. For timely updates, please visit the publications section on our website (http://www.urishpopeck.com/media/publications.aspx).

For instance, in recent years, Congress has used bonus depreciation to encourage economic growth. Currently, a special 50-percent first year bonus depreciation allowance is provided for qualified property. This allowance is scheduled to expire after 2012. Bonus depreciation also relates to vehicle depreciation dollar limits will expire after 2012. Code Sec. 179 expensing for 2012, is limited to $139,000 with a $560,000 investment ceiling on the purchase of all otherwise qualifying property. These limitations drop to $25,000 and $200,000, respectively in 2013.

Repair Regulations

The rules for capitalizing improvements to tangible property are provided as part of a group of regulations known as the "repair regulations." The regulations are broad and far-reaching - they apply to every business taxpayer that uses tangible property, whether owned or leased. Early adoption to the regulations is available in 2013 but will be mandatory beginning 2014.

In general, these regulations attempt to provide standards for distinguishing repairs from capitalized improvements based on principals developed over the years in court cases and IRS rulings. A change by a taxpayer to conform to the repair regulations is an accounting method change, and a corresponding adjustment is generally required. This adjustment serves to put the taxpayer on the same accounting method for all amounts incurred both prior to and after the effective date of the regulations. Therefore, taxpayers adopting an accounting method change under the capitalization regulations must examine repairs and capitalized expenses for prior years in order to calculate the adjustment.

Taxpayers with an "applicable financial statement," such as a certified audited financial statement, may claim a current deduction for the cost of acquiring items of relatively low-cost property, including materials and supplies, if specific requirements are met. The aggregate cost which may be expensed annually under a taxpayer's expensing policy is subject to a ceiling equal to the greater of .1 percent of gross receipts or 2 percent of total depreciation and amortization reported on the financial statement.

“Bush-era” tax Cuts

The “Bush-era” tax cuts is the collective term for the tax measures enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA). EGTRRA and JGTRRA made over 30 major changes to the Tax Code which are scheduled to sunset at the end of 2012. The following are highlights of the major changes for business and investment in 2013 resulting from the sunset –

- Reduced maximum capital gains rate expires
- Lower capital gain tax rates for qualified five-year gain will be revived
- Exclusion of gain on sale of small business stock treated as AMT preference item will increase
- Taxation of qualified dividends at capital gain rates will no longer apply
- Credit for employer-provided child care facilities and services expire
- Accumulated earnings tax rate increases to 39.6 percent
- Personal holding company tax rate increases to 39.6 percent
- Repeal of collapsible corporation rules expires

Health Care

Much work needs to be done in dealing with the requirements of the health care reform package passed in 2010 and upheld by the U.S. Supreme Court in 2012. The tax law plays a major role in implementation of health care reform. From the tax credits and subsidies used to expand health coverage, to the many penalties, fees and surtaxes designed to pay for it, the Tax Code is front and center.

Two new laws. Health care reform is actually made up of two new laws: the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010. The Patient Protection Act was crafted largely in the Senate and sets out the general framework of health care reform. The Reconciliation Act was prepared in the House to modify the Patient Protection Act, especially in the areas of tax credits and cost sharing for individuals to help make coverage more affordable. Common features to both laws are delayed effective dates for many of the provisions, which make strategic planning all that more important.

New taxes and penalties. Viewing the historic health care reform package from the context of the Tax Code, many new taxes and penalties stand out immediately above the rest. It is also important to remember many provisions have different effective dates.

Highlights include:

- Individuals who earn more than $200,000 for the year ($250,000 for married couples) will pay an additional 0.9 percent in Hospital Insurance (Medicare) tax, starting in 2013;

- Individuals whose adjusted gross income for the year exceeds $200,000 ($250,000 for joint filers), whether from wages or otherwise, will also pay an additional 3.8 percent Medicare tax on net investment income, starting in 2013;
- Employers with 50 or more employees that do not offer coverage or offer coverage that does not meet new minimum essential coverage requirements will pay a penalty per employee, starting in 2014;
- Small for-profit employers with no more than 25 employees are entitled to up to a 35 percent tax credit on the cost of providing health insurance for employees, starting immediately in 2010 (small tax-exempt employers may qualify for a reduced credit);
- Young adults may remain on their parents' health insurance plans through age 26;
- The health care reform package extends the income tax exclusion to any employee's child who has not attained age 27 as of the end of the tax year;
- Most individuals will be required to obtain health insurance or be subject to a penalty tax starting in 2014 (this is the so-called individual mandate);
- Tax credits to subsidize the cost of health insurance premiums will be available to qualified individuals, starting in 2014;
- Health flexible savings arrangement (FSA) dollars will be limited to prescription medications with some exceptions after 2010, along with a $2,500 annual cap on expenses covered under health FSAs, after 2012;
- A 40 percent excise tax will be imposed on high-cost, "Cadillac" employer-sponsored health coverage, starting in 2018;
- Fees will be imposed on the pharmaceutical industry and health insurance providers , starting in 2011 and 2014, respectively;
- An excise tax will be imposed on medical device manufacturers after 2012; and
- Limits on tax-subsidized medical expenses will be imposed by raising the itemized medical expense deduction floor for regular tax purposes from 7.5 percent to 10 percent, generally starting in 2013 with a temporary exception for senior citizens.

Exchanges. The health care reform package requires each state to establish an insurance exchange by 2014 to help individuals and qualified employers obtain coverage. Coverage will be offered at various levels. Qualified individuals may be eligible for premium assistance tax credits, cost-sharing or vouchers to help pay for coverage through an insurance exchange. An individual's income, whether or not coverage is provided by his or her employer, will be taken into account when determining if the individual qualifies for a premium assistance tax credit, cost-sharing or voucher.

Although it was optional in 2011, Form W-2 reporting is mandatory for 2012 and thereafter. Employers must disclose the aggregate cost of applicable employer-sponsored coverage provided to employees annually on the employee's Form W-2. Regardless of whether the employee or the employer pays for the coverage, the aggregate cost of the coverage reported is determined under rules similar to those used in determining applicable premiums for purposes of the COBRA continuation coverage requirements of group health plans.

Planning

Year-end planning for 2012 requires a combination of multi-layered strategies, taking into account a variety of possible scenarios and outcomes. Traditional year-end planning techniques nevertheless remain important. Particularly as applied to the special 2012 year-end circumstances discussed in this letter, the following income acceleration and reciprocal deduction/credit deferral techniques should be considered:

Income Acceleration:

- Sell outstanding installment contracts
- Receive bonuses before January
- Sell appreciated assets
- Redeem U.S. Savings Bonds
- Declare special dividend
- Complete Roth conversions
- Accelerate debt forgiveness income
- Maximize retirement distributions
- Accelerate billing and collections
- Avoid mandatory like-kind exchange treatment
- Take corporate liquidation distributions in 2012

Deductions/Credit Deferral

- Bunch itemized deductions into 2013/Standard deduction into 2012
- Postpone bill payments until 2013
- Pay last state estimated tax installment in 2013
- Postpone economic performance
- Watch AGI limitations on deductions/credits
- Watch net investment interest restrictions
- Match passive activity income and losses

Every tax situation is different and requires a careful and comprehensive plan. We can assist you in aligning traditional year-end techniques with strategies for dealing with the uncertainties created by Congress's delay in addressing sunsetting tax rates and the extension of other major tax benefits. Please stay tuned for our updates and call our office if you have have any questions or would like to schedule a consultation.

Sincerely yours,

Urish Popeck + Co., LLC