

## TAX AND BUSINESS *Alert*™

August 2009

The current economic situation is forcing many individuals to reconsider their employment options. If you have always wanted to start that home-based business on a full or part-time basis, a layoff or early retirement may present an opportunity to do so.

If you are self-employed and work out of an office in your home used exclusively and regularly for the business, there are strict rules that apply to deducting office-related expenses. If you are able to meet these requirements, the expenses related to your home office will qualify for the more favorable treatment as above-the-line business expenses.

Expenditures related to the home office include both direct and indirect expenses. Direct expenses include the costs of painting or repairing the home office, depreciation deductions for furniture and fixtures used in the home office, etc. Indirect expenses of maintaining the home office include the properly allocable share of utility costs, depreciation, insurance, etc., for your home, as well as an allocable share of mortgage interest, real estate taxes, and casualty losses.

If your home office is your principal place of business, the costs of traveling between your office and other work locations in that


## Home Office Deductions for the Self-employed

business are deductible transportation expenses, rather than nondeductible commuting costs. An additional benefit includes the ability to deduct the cost of computers and related equipment used in your home office.



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If you are in the business of selling retail or wholesale products, you can deduct expenses related to the space in your home that is used regularly to store inventory or product samples if it is your sole fixed business location. Finally, deductions related to your home office are subject to limitations based on the income attributable to the business conducted in the home office. So, you must be careful not to deduct ineligible expense items.


With proper planning, you will be able to benefit from the maximum deductions available related to your home office. Please call us if you would like to discuss this issue in further detail. 

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## Employer Matching Charitable Contributions

Employers often sponsor a matching program for charitable contributions made by their employees to certain charities. If an employee's contribution to a charity is matched (in whole or in part), and the employee receives goods or services in return for the donation, the goods and services

are treated as provided solely in consideration for the employee's portion of the total contribution. Therefore, the employee (not the employer) would receive the required written acknowledgment from the charitable organization indicating the good faith estimate of the value of the goods or services provided by the charitable organization. The employee should reduce the amount of his or her contribution (not the employer's portion) by the value of the goods or services provided by the charitable organization. 

## FDIC Extends Increased Insurance Coverage

The Federal Deposit Insurance Corporation (FDIC) has provided deposit insurance coverage to depositors of insured banks




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since 1933. It is an independent agency of the U.S. Government. In 1989, the FDIC was given the additional duty of insuring deposits in savings associations.

A depositor is normally covered by the FDIC for up to \$100,000 (\$250,000 for retirement


accounts) in each insured financial institution. However, the Emergency Economic Stabilization Act of 2008 increased this amount to \$250,000 for all types of accounts for the period October 3, 2008, through December 31, 2009. The increased insurance coverage went a long way to ease depositors' fears during the recent banking crisis.

Congress recently passed legislation extending the increased FDIC insurance limits. The Helping Families Save Their Homes Act extended the \$250,000 insurance limit through December 31, 2013. This legislation also increased the FDIC's borrowing authority from the U.S. Treasury if additional funds are required to cover insured accounts. Depositors can remain confident their deposits are safe, even during this time of economic uncertainty. Additional information can be located at [www.fdic.gov](http://www.fdic.gov). 

## HSA Inflation Adjustments

Health Savings Accounts (HSAs) were created as a tax-favored framework to provide health care benefits. HSAs are targeted mainly at the self-employed, small business owners, and employees of small to medium-sized companies who do not have access to health insurance.

The annual 2010 inflation-adjusted deduction limitation for individual self-only coverage

under a high-deductible plan is \$3,050, an increase of \$50 over 2009. The comparable amount for family coverage is \$6,150, up from \$5,950 in 2009. For 2010, a high-deductible health plan is defined as a health plan with an annual deductible that is not less than \$1,200 for self-coverage and \$2,400 for family coverage, and the annual out-of-pocket expenses (including deductibles and copayments, but not premiums) do not exceed \$5,950 for self-only coverage, or \$11,900 for family coverage. 

**F**resh reports of layoffs abound, and the unemployment rate continues to climb. It's now over 10% in quite a few states, and the national rate could be there before long. The unfavorable employment situation may cause concern about being on the receiving end of the dreaded pink slip. So, this may be the time to prepare for a worst case scenario. Waiting until it happens may cause you to make quick decisions that will lead to some ill-advised actions. Listed below are some ideas to help prepare for a possible job loss.

**Start with conserving cash.** This is obvious advice, but some people react to expected bad news by doing the exact opposite. They go on spending sprees and arrange expensive vacations to make themselves feel better. But, when the bills come due, they will feel a whole lot worse. So, postpone spending money on things that are not strictly necessary.

**Keep your creditors happy.** A good credit report and the resulting access to additional credit will come in very handy if an anticipated layoff materializes. You should not be afraid to put necessary expenses on credit cards in order to build up a cash reserve. If the expected layoff doesn't happen, the credit card balances can quickly be paid off. If the layoff does occur, the cash reserve provides a margin for error, and the credit card balances can be paid off over an extended period. Of course, the key point here is to only put necessary expenses that would be incurred in any event on the credit cards.

**Arrange additional credit, when possible.** Lining up new credit can be challenging in today's stingy lending environment. And, while it may be extremely difficult for some, it will be downright impossible for just about anyone who has just lost a job. In particular, you should consider a Home Equity Line of Credit (HELOC), if available.

**Get overdraft protection.** Arrange for overdraft protection and an unsecured line of credit, if possible.


## Prepare Financially for a Possible Job Loss

**Tap other available credit sources.** These can include making informal arrangements with relatives. At all times, you should understand the only reason for building up your borrowing power is to create a margin for error. The enhanced borrowing power must not be used to finance unnecessary expenditures.




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**Pay off retirement plan loans.** There's one category of debt that should be liquidated rather than expanded if you're afraid of being laid off. We are talking about a loan against your qualified retirement plan account at work. If you lose your job, the plan loan's terms typically call for immediate repayment. If the loan is not paid off, you are deemed to receive a distribution equal to the unpaid plan loan balance. That deemed distribution is, of course, taxable, and a 10% premature withdrawal penalty may apply (exceptions to the penalty are available). The same thing can happen if, upon termination, you request an immediate payout of your qualified retirement plan balance. With cash already in short supply, owing extra taxes just makes things worse.

Having a financial plan is always a good idea, but it is an even better idea during this time of economic uncertainty. 

### Proprietorship Dispositions

*(Continued from Page 4)*

A proprietor who sells a business may enter into a covenant not to compete as part of the sales transaction. Income from a covenant not to compete is generally ordinary income, but is not subject to SE tax unless the seller continues to provide consulting services to the buyer under the arrangement of the covenant. 

# Proprietorship Dispositions

In this difficult economic environment, you may be looking to dispose of a business you own as a sole proprietorship. Because of the



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personal ownership characteristics of a sole proprietorship, unique issues may arise upon the disposition of the business activity. Owners must separate

and allocate the sale proceeds from the disposition of a proprietorship to the various asset components. Depreciation recapture and capital gain allocation issues must be addressed, as well as reporting requirements that are triggered by a sale. Finally, the tax consequences of a disposition by abandonment and the deductibility of expenses paid in tax years after the disposition must be considered.

When a sole proprietor sells an entire business, it is not treated as a single asset sale. Instead, it is treated as a sale of each individual asset comprising the business. Gain or loss is reported for each business asset and is determined based on the difference between the allocable sales price and the asset's adjusted tax basis.

Inventory held for sale to customers in the ordinary course of business is ordinary income

property, not a capital asset. Similarly, accounts or notes receivable acquired in the ordinary course of business, for services rendered or from the sale of inventory, are ordinary income property. Accordingly, the sales of any inventory, stock in trade, or accounts receivable upon disposition of a proprietorship are reported as ordinary income, and the proceeds are also included in the taxpayer's self-employment (SE) tax computation. However, SE income does not include gains or losses from sales of other business property.

The disposition of property used in the business may result in ordinary income, capital gains, or ordinary losses, depending on the length of ownership and how the property was used. A sale of real property typically requires an allocation of the sales price between the land and building based on the relative fair market value of each component. Note that when business property is disposed of or otherwise ceases to be used in a proprietorship business, several recapture provisions can apply that may alter the character and timing of income recognized.

Automobiles are subject to depreciation recapture provisions when business use of these assets originally exceeded 50% but later falls to 50% or less. This may occur when a sole proprietor uses an automobile in business but converts it to personal use when the business is sold or discontinued.

*(Continued on Page 3)*

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