



AN ALERT FROM SMITH LEONARD PLLC:

Smith Leonard 2013 Planning Letter



 Subject

2013 YEAR-END CORPORATE/BUSINESS INCOME TAX PLANNING

CONTACT:

Kevin Benson – Tax Partner

336.821.1402

kbenson@smithleonardcpas.com

Mark Bulmer – Tax Partner

336.821.1411

mbulmer@smithleonardcpas.com

Jon Glazman – Tax Partner

336.821.1407

jglazman@smithleonardcpas.com

Addison Maille – Tax Partner

336.821.1304

amaille@smithleonardcpas.com



2013 YEAR-END CORPORATE/BUSINESS INCOME TAX PLANNING

INTRODUCTION

It's once again time to begin thinking of year-end tax planning strategies to reduce the tax burden of your business. Year-end planning is particularly challenging this year given the rapid pace of recent tax law changes and the extensive list of business tax breaks scheduled to ***expire at the end of 2013***.

We are sending you this letter to help you navigate several *new* tax planning opportunities available to businesses because of recent law changes and other current tax developments, while also reminding you of the *traditional* year-end tax planning strategies for businesses (including regular "C" corporations, "S" corporations, partnerships, LLCs, and self-employed individuals).

- **Planning Alert!** Since there are significant business tax breaks ***expiring after 2013***, you may have to act promptly to take advantage of these short-lived provisions! Therefore, we ***highlight prominently*** the ***expiration dates*** for the various provisions discussed in this letter which are scheduled to expire.
- **Caution!** Although Congress has traditionally extended many of these expiring business tax breaks in the past, there is no guarantee that it will do so in the future.
- **Planning Alert!** Although this letter contains many planning ideas, you cannot properly evaluate a particular planning strategy without calculating the overall tax liability on the business and its owners (including the alternative minimum tax) with and without the strategy. In addition, ***this letter contains ideas for Federal income tax planning only. State income tax issues are not addressed.*** You should also consider any state income tax consequences of a particular planning strategy. We recommend that **you call our firm before implementing any tax planning technique** discussed in this letter, or if you need more information.

To help you locate items of interest, we have divided planning ideas into the following topics:

- Take Advantage Of Business Tax Breaks Scheduled To Expire After 2013
- The New 3.8% "Net Investment Income Tax" - Strategies For Business Owners
- Affordable Care Act Employer Mandate Delayed - But Not Gone
- IRS Releases Much-Anticipated "Final" Repair vs. Capitalization Regulations
- Other Year-End General Business Planning



TAKE ADVANTAGE OF BUSINESS TAX BREAKS SCHEDULED TO EXPIRE AFTER 2013

A host of current tax breaks for businesses are scheduled to ***expire after 2013***, unless Congress takes action to extend these provisions.

- **Caution!** Although Congress has traditionally extended a majority of expiring tax breaks in the past, there is no guarantee that it will do so in the future.
- **Tax Tip!** Regardless of how Congress ultimately addresses these expiring tax breaks, there are real tax savings available if your business takes advantage of these provisions ***before their scheduled expiration date***. The following are some of the more popular tax breaks that have been available to businesses over the past several years, but are ***currently scheduled to expire after 2013***: **1)** 15-Year (Instead of 39-year) Depreciation Period for “Qualified” Leasehold Improvements, Restaurant Property, and Retail Improvement Property; **2)** 7-Year Depreciation Period for Certain Motor Sports Racetrack Property; **3)** Research and Development Credit; **4)** Employer Differential Wage Credit for Payments to Military Personnel; **5)** Favorable S Corporation Charitable Contribution Provisions Involving Capital Gain Property (expires for contributions in tax years beginning after 2013); **6)** a Host of Tax Benefits for Qualified Energy-Efficient Expenditures and for Qualifying Investments in Empowerment Zones; **7)** Election for C Corporations to Exchange Bonus Depreciation for Refundable AMT Credits; **8)** Parity Between Employer-Provided Parking and Employee Transportation Fringe Benefits; and **9)** Enhanced Charitable Contribution Rules for Qualifying Business Entities Contributing Food Inventory.
- **Planning Alert!** If you would like to take advantage of any of these provisions, but you need more information, please call our office so we can help you take the necessary steps to lock in these deductions before it is too late.

In addition to the expiring provisions listed above, the following are business tax breaks scheduled to expire after 2013 ***that warrant special attention*** as we approach ***the end of 2013***:

The 50% 168(k) Bonus Depreciation Scheduled To Expire After 2013. A significant “targeted” business tax break ***scheduled to expire (for most qualifying property) after 2013*** is the ***50% 168(k) first-year bonus depreciation*** deduction. The amount of this deduction has fluctuated over the last several years. However, for qualifying property placed-in-service after 2011 and before 2014, the deduction is 50% of the cost of the property. The deduction is ***scheduled to expire altogether*** for qualifying property placed-in-service ***after December 31, 2013*** (placed-in-service after December 31, 2014 for certain long-production-period property and qualifying noncommercial aircraft). Therefore, if you are considering acquiring qualifying property for your business in the near future, and you do not want to miss out on this deduction, your business must ***generally “acquire” and “place-in-service”*** the qualifying property ***no later than December***



31, 2013. However, there are special rules for long-production-period property and noncommercial airplanes placed-in-service before 2015.

- **Planning Alert!** This December 31, 2013 deadline applies whether your business is a *fiscal-year* or *calendar-year* taxpayer.
- **“Placed-In-Service.”** Generally, if you are purchasing “personal property” (equipment, computer, vehicles, etc.) “placed-in-service” means the property is *ready and available* for use. To be safe, qualifying property should be *set up and tested* on or before the **last day of 2013**. If you are dealing with building improvements (e.g., qualified leasehold improvement property, non-structural components of a building), a *certificate of occupancy* will generally constitute placing the building improvements in service.
- **Qualifying 50% 168(k) Bonus Depreciation Property.** Generally, property qualifies for the 50% 168(k) bonus depreciation deduction if it is purchased *new* and it is either a “qualified leasehold improvement” (discussed below), or it has a depreciable life for tax purposes of *20 years or less* (e.g., machinery and equipment, furniture and fixtures, cars and light general purpose trucks, sidewalks, roads, landscaping, depreciable computer software, farm buildings, and qualified motor fuels facilities).
 - **Tax Tip!** Make sure you properly classify “land improvements” as “15-year property” (and not as part of the building) since land improvements qualify for the 50% bonus depreciation deduction, and buildings (other than “qualified leasehold improvements,” farm buildings, and qualified motor fuels facilities) generally do not.
 - **Planning Alert!** These are only examples of qualifying property. If you have a question about property that we did not mention, call us and we will help you determine if it qualifies.
 - **Caution!** “Qualified restaurant property” and “qualified retail improvement property” (described in the section 179 discussion below) do not qualify for the 50% 168(k) deduction unless the property also constitutes a “qualified leasehold improvement.”
- **50% 168(k) Bonus Depreciation For Passenger Automobiles, Trucks, And SUVs.** The maximum annual depreciation deduction (including the section 179 deduction) for most *business automobiles* is capped at certain dollar amounts. For a business auto first placed-in-service in **calendar year 2013**, the maximum first-year depreciation deduction is generally capped at \$3,160 (\$3,360 for trucks and vans not weighing over 6,000 lbs). However, Congress has temporarily increased these first-year depreciation caps by \$8,000 if a qualifying “new” vehicle is **placed-in-service before 2014**.
 - **Planning Alert!** These depreciation caps are reduced if the vehicle is not used 100% for trade or business purposes.



“Expanded” Section 179 Deduction Scheduled For Major Reduction For Tax Years Beginning After 2013. Another extremely popular business tax break, *scheduled to be scaled back for tax years beginning after 2013*, is the “expanded” section 179 deduction. For the last several years, Congress has temporarily increased the maximum section 179 up-front deduction for the cost of qualifying “new” or “used” depreciable business property (e.g., business equipment, computers, etc.). For property placed-in-service in **tax years beginning in 2010 through 2013**, the overall section 179 cap is **\$500,000**, and the \$500,000 deduction is not reduced until the section 179 property placed-in-service during the year exceeds **\$2,000,000**. In addition, for **property placed-in-service in tax years beginning in 2010 through 2013**, a taxpayer may elect for **up to \$250,000** of **“qualified real property”** to be section 179 property.

- **Planning Alert!** For **tax years beginning after 2013**, the maximum section 179 deduction is currently scheduled to drop **to \$25,000**, the phase-out threshold **drops to \$200,000**, and there will **no longer be a section 179 deduction** for **“qualified real property”** or **computer software**.
- **Consider Accelerating 179 Acquisitions!** If your business is searching for purchases between now and the end of the year that will generate substantial tax deductions, you should seriously consider taking advantage of the expanded section 179 deduction. **Planning Alert!** These expanded section 179 provisions (\$500,000 cap, application to “qualified real property,” etc.) expire for qualifying property **placed-in-service in tax years beginning after 2013**. Therefore, if your business uses a calendar tax year, it must place the qualifying property in service **no later than December 31, 2013**.
- **Up To \$250,000 Of “Qualified Real Property” Temporarily Qualifies As Section 179 Property.** Traditionally, the section 179 deduction has been limited to depreciable, tangible, “personal” property, such as equipment, computers, vehicles, etc. However, businesses may **“elect”** to treat qualified “real” property as §179 property, for property **placed-in-service in tax years beginning in 2010 through 2013**. The maximum section 179 deduction that is allowed for *qualified real property* is \$250,000. “Qualified Real Property” includes the following: **1) Qualified Leasehold Improvement Property** (generally capital improvements to an interior portion of certain leased buildings that are more than 3 years old and that are used for nonresidential commercial purposes); **2) Qualified Retail Improvement Property** (generally capital improvements made to certain buildings that are more than 3 years old and which are open to the general public for the sale of tangible personal property); **and 3) Qualified Restaurant Property** (generally capital expenditures for the improvement, purchase, or construction of a building, if more than 50% of the building’s square footage is devoted to the preparation of, and seating for, the on-premises consumption of prepared meals).
 - **Tax Tip!** To the extent the section 179 deduction is not taken, each of these three properties is depreciated **over 15 years** (using the straight-line



depreciation method) **if placed-in-service before 2014**. If placed-in-service **after 2013**, each of these properties is depreciated **over 39 years**.

- **Planning Alert!** If your business is a calendar-year taxpayer, its **qualified real property** must be placed-in-service no later than December 31, 2013 in order to get the section 179 deduction (up to \$250,000). A **certificate of occupancy** will generally constitute placing the building improvements in service.
- **Heavy Vehicles (i.e., > 6,000 lbs.)** Trucks and SUVs with loaded rated vehicle weights over 6,000 lbs are generally exempt from the annual depreciation caps that were discussed previously in this letter. These “heavy vehicles,” **if used more than 50% in business**, will also qualify for the 50% 168(k) bonus depreciation deduction (if new), and the section 179 deduction (whether new or used). However, the section 179 deduction for an SUV is limited to \$25,000. **For example**, let’s assume that in 2013 you purchase and place-in-service a new “over-6,000 lb” SUV **for \$50,000** used entirely for business. If you elect to take the section 179 deduction on the vehicle, for 2013 you could deduct: **1)** up to \$25,000 under section 179, **2)** 50% of the remaining balance as 168(k) first-year bonus depreciation, and **3)** 20% of the remaining cost as regular depreciation for the first year. Thus, for a \$50,000 new heavy SUV placed-in-service in 2013, you could write off \$40,000 in 2013 (assuming 100% business use and the half-year convention apply).
 - **Tax Tip!** Pickup trucks with loaded vehicle weights over 6,000 lbs are exempt from the \$25,000 limit under §179 (imposed on SUVs) if the truck bed is at least six feet long.
 - **Planning Alert!** If you take the section 179 deduction and/or the 50% 168(k) first-year bonus depreciation on your business vehicle, and your business use percentage later **drops to 50% or below**, you will generally be required to bring into income a portion of the deductions taken in previous years.

Work Opportunity Tax Credit Extended. Over the last two decades, many employers have taken advantage of the Work Opportunity Tax Credit (WOTC) by hiring workers from certain disadvantaged groups. For example, hiring a worker who receives certain government benefits, or is a veteran, may qualify your business for this credit. Currently, the WOTC is scheduled to **expire for any qualified worker who begins work after December 31, 2013**.

- **Expanded WOTC For “Qualified Veterans.”** To encourage employers to hire more military veterans, in late 2011 Congress added an expanded “**qualified veteran**” category to the types of employees that qualify for the WOTC. Depending on the “tax” classification of the “**qualified veteran**,” the maximum credit runs from \$2,400 to \$9,600. In addition, unlike the WOTC credits for other individuals, tax-exempt employers (other than government agencies) that hire “**qualified veterans**” may receive a “**refundable**” credit of 65% of the credit allowed for taxable employers. However, the WOTC is scheduled to expire for “**qualified veterans**” **who begin work after December 31, 2013**.



- **Planning Alert!** To qualify for the WOTC, all employers (including tax-exempt employers who hire “qualified veterans”) must have the new worker complete IRS **Form 8850** (“Pre-Screening Notice and Certification Request for the Work Opportunity Credit”), and submit that form to the state employment security agency **no later than 28 days** after the employee begins work. You can locate Form 8850 at www.irs.gov. The instructions to the form provide a detailed explanation of the categories of workers who qualify for the WOTC (including the definition of a “qualified veteran”).

THE NEW 3.8% “NET INVESTMENT TAX” – STRATEGIES FOR BUSINESS OWNERS

Overview. Beginning in 2013, the *Affordable Care Act* imposes a new 3.8% tax on the **net investment income** (3.8% NIIT) of **higher-income taxpayers**. With limited exceptions, “**net investment income**” generally includes the following types of income (less applicable expenses): interest, dividends, annuities, royalties, rents, “passive” income (as defined under the traditional “passive activity” loss rules), long-term and short-term capital gains, and income from the business of trading in financial securities and commodities.

- **Planning Alert!** Income, including “passive” income, **is not “net investment income”** (and is therefore exempt from this new 3.8% NIIT), **if the income is “self-employment income”** subject to the 2.9% Medicare tax. The 3.8% NIIT applies to individuals with modified adjusted gross income (MAGI) exceeding the following “**thresholds**”: **\$250,000 if married filing jointly; \$200,000 if single; and \$125,000 if married filing separately**. The 3.8% NIIT is imposed upon **the lesser of** an individual’s **1) modified adjusted gross income (MAGI) in excess of the threshold, or 2) net investment income**.
- **Example.** For 2013, Mark (a single taxpayer) has MAGI of \$210,000 comprised of W-2 compensation of \$180,000 and “investment income” (e.g., capital gains, interest, dividends) of \$30,000. Mark has \$10,000 of deductible expenses allocable to investment income. Therefore, Mark’s “net investment income” is \$20,000. The 3.8% NIIT would be imposed on the **lesser of 1) \$10,000** (i.e., Mark’s MAGI of \$210,000 less the \$200,000 threshold for a single individual), or **2) \$20,000** (Mark’s net investment income). Therefore, Mark would pay NIIT of \$380 (i.e., \$10,000 x 3.8%).

Business Income Of Passive Owners May Trigger The 3.8% NIIT. For purposes of this 3.8% NIIT, **net investment income** includes *operating* business income that is taxed to a “**passive**” owner (unless the operating income constitutes *self-employment* income to the owner that is subject to the 2.9% Medicare tax). For this purpose, an owner is considered “**passive**” in a business activity (excluding activities conducted through a C corporation) if the owner is “passive” under



the *passive loss limitation* rules that have been around for years. For example, you are deemed to *materially participate* (i.e., you're not "passive") if you spend **more than 500 hours** during the year working in the business.

- **Special Rule For "Passive" Operating Income.** As mentioned above, business income reported by a "*passive*" owner is **not subject to the 3.8% NIIT** if the income constitutes *self-employment income subject to the 2.9% Medicare tax*. Pass-through business income to a "**general**" partner *is* classified as *self-employment income* subject to 2.9% Medicare tax, **regardless of whether** the partner "materially participates" in the partnership's business activities. Therefore, pass-through business income to a **general** partner *is exempt* from the 3.8% NIIT. However, pass-through business income to an **S corporation shareholder** or a "**limited**" partner (other than "guaranteed payments") is **not classified** as "*self-employment income*," and therefore is not subject to the 2.9% Medicare tax. Consequently, if you are a **limited partner** or **S corporation shareholder**, your pass-through business income will generally constitute **net investment income** (and, thus exposed to the 3.8% NIIT) **unless** you "**materially participate**" in the operations of the business.
- **"Passive" S Corporation Shareholders And Limited Partners Should Consider "Materially Participating."** If you are an **S corporation shareholder** or **limited partner**, and you *materially participate* in the business, your pass-through business income will generally be **exempt** from the new 3.8% NIIT.
- **Note!** The pass-through income is also exempt from Social Security and Medicare taxes (including the new .9% Additional Medicare Tax on earned income). Thus, if you are currently a "passive" limited partner or S corporation shareholder and your MAGI exceeds the thresholds for the 3.8% NIIT (e.g., exceeds \$250,000 if married filing jointly; \$200,000 if single), you should begin now taking steps to establish that you "*materially participate*" in the business. For example, one way to *establish that you materially participate* in the business would be to devote *over 500 hours* during the year working in the business.
- **Tax Tip!** Depending on your specific facts and circumstances and the type of ownership interest you have in a business (e.g., S corporation shareholder vs. limited partner), there may be other ways you can *establish that you "materially participate"* in the business without working more than 500 hours.
- **Planning Alert!** If you have other "*passive*" activities generating losses, you may prefer to remain *passive* so that your pass-through business income may be used to offset your *passive* losses from the other passive activities.
- **Caution!** These rules are complicated and require a thorough review of your particular situation to develop the most tax-wise strategy.



AFFORDABLE CARE ACT EMPLOYER MANDATE DELAYED – BUT NOT GONE

Overview. The Affordable Care Act (ACA) generally provides that “*applicable large employers*” (using a 50-employee threshold test) must offer an “*eligible employer health plan*” to its full-time employees, or face a *nondeductible excise tax* (the so-called *play-or-pay* penalty) if **at least one of its full-time employees** obtains insurance on the exchange and **receives a premium assistance credit**. Although ACA states that this provision becomes effective in 2014, last summer the *IRS announced that it will not impose this excise tax on employers until 2015*. The IRS also says that it will delay, *from 2014 to 2015*, the ACA requirement that employers must provide certain annual health insurance information to the IRS and to their employees.

- **Note!** This delay essentially gives employers an additional year to prepare for the health care mandate imposed by ACA.
- **Planning Alert!** The employer “*excise tax*” for failure to offer an “*eligible employer health plan*” to employees applies only to “*applicable large employers*.” An “*applicable large employer*” is generally an employer that employed **on average 50** or more employees (determined by adding together the number of “full-time employees” and the “full-time equivalent employees”) during each month of the entire **preceding calendar year**. Under this rule, an employer would be classified as an “*applicable large employer*” for **2015** (i.e., the first year the IRS will enforce the employer mandate excise tax) if it employed a **monthly average** of at least 50 employees (“*full-time employees*” plus “*full-time equivalent employees*”) during the **entire 2014 calendar year**.
- **Caution!** The IRS has released a set of comprehensive regulations containing rules for determining whether an employer meets the 50-employee threshold. These rules are lengthy and complicated, so please call our firm if you need additional details.

IRS RELEASES MUCH-ANTICIPATED “FINAL” REPAIR VS. CAPITALIZATION REGULATIONS

Summary. One of the most significant “tax” issues confronting business taxpayers is whether they must capitalize or deduct (as a current “expense”) expenditures for acquiring, maintaining, or repairing “tangible” business property (e.g., equipment, vehicles, buildings, supplies, etc.). For example, let’s assume that a storm damaged the roof of your commercial building costing you \$50,000 to bring the roof back to its pre-damaged condition. If you are allowed to treat the expenditure as a *repair*, you could deduct the entire \$50,000 immediately. By contrast, if you are required to *capitalize* the expenditure as an “improvement” to the building, you would be required to deduct the \$50,000 over the depreciable life provided for a commercial building (i.e., over 39 years). Virtually every business, large and small, eventually confronts this “repair” vs. “capitalization” issue.



In December 2011, the IRS released long-awaited **“temporary”** repair vs. capitalization regulations (“repair regulations”) applicable to “tangible” business property which were originally scheduled to be effective for tax years beginning after 2011. However, in November 2012, the IRS announced that it planned to issue the **“final”** repair regulations during 2013, and that taxpayers **were not required** to apply either the “temporary” or the “final” repair regulations **until tax years beginning after 2013**. As promised, in September 2013, the IRS released its “final” repair regulations which are generally effective **for tax years beginning after 2013**.

- **Generally Good News!** As compared to the earlier **“temporary”** regulations, the **“final”** expense regulations include significant taxpayer-friendly changes. For example, the **final** regulations contain: **1)** a new **“elective” de minimis safe harbor** generally allowing taxpayers that meet certain criteria to deduct individual purchases of tangible business property not exceeding \$500 (not exceeding \$5,000 for certain businesses that have a qualifying financial statement); **2)** a new **“elective” de minimis safe harbor** generally allowing a business with average gross receipts of \$10 million or less to deduct qualifying expenditures with respect to buildings that cost \$1 million or less; **3)** a revised and simplified **“routine maintenance”** safe harbor that, if satisfied, allows taxpayers of any size to deduct qualifying expenditures with respect to personal property (e.g., business equipment, vehicles, etc.) and buildings; and **4)** clearer rules for identifying “incidental” materials and supplies that are deductible when paid for and “nonincidental” materials and supplies which are deductible when consumed. In addition, the IRS simultaneously released new **proposed** regulations that make several pro-taxpayer changes to the tax treatment for dispositions of depreciable property (including revised tax treatment for the disposition of a building component).
- **Planning Alert!** These new **“final” regulations** are long (approximately 200 pages), comprehensive, and are generally not effective until **tax years beginning after 2013**. However, the IRS **gives us the option** to apply either the “final” regulations, the “temporary” regulations (released in 2011), or the older pre-2011 regulations **for tax years beginning in 2012 or 2013**. Moreover, there are provisions in the final regulations that may make it advantageous for you to: **1)** have written “expensing” policies in place as early as **January 1, 2014**; **2)** amend your 2012 return to retroactively “elect” one or more of the **safe harbors** (discussed above) allowed under the final regulations; or **3)** apply for an accounting method change to apply the final regulations to prior years. Consequently, our firm is in the process of examining how these rules apply to various situations. In the meantime, if you need more information, feel free to call us.



OTHER YEAR-END GENERAL BUSINESS PLANNING

S Corporation Shareholders Should Check Stock And Debt Basis Before Year End. If you own S corporation stock and you think your S corporation will have a tax loss this year, you should contact us as soon as possible. These losses will not be deductible on your personal return unless and until you have adequate “basis” in your S corporation. Any pass-through loss that exceeds your “basis” in the S corporation will carry over to succeeding years. You have basis to the extent of the amounts paid for your stock (adjusted for net pass-through income, losses, and distributions), **plus** any amounts you have personally loaned to your S corporation.

- **Planning Alert!** If an S corporation anticipates financing losses through borrowing from an outside lender, the best way to ensure the shareholder gets **debt basis** is to: **1)** have the shareholder personally borrow the funds from the outside lender, and **2)** then have the shareholder formally (with proper and timely documentation) loan the borrowed funds to the S corporation. It also may be possible to *restructure* (with timely and proper documentation) a pre-existing outside loan directly to an S corporation in a way that will give the shareholder debt basis.
- **Caution!** A shareholder cannot get debt basis by merely guaranteeing a third-party loan to the S corporation. ***Please do not attempt to restructure your loans without contacting us first.***

Self-Employed Individuals, Partners, And S Corporation Owners Should Take Maximum Advantage Of Deduction For Health Insurance Premiums. Generally, if you are self-employed, a partner in a partnership, or a more-than-2% shareholder of an S corporation, you may qualify for an “above-the-line” deduction (i.e., unrestricted by the limitations on “itemized deductions”) for health insurance premiums you pay for yourself, your spouse, your dependents, or your children under 27 at the end of the year (even if the child is not your dependent). The IRS says that if you otherwise qualify for an *above-the-line* deduction for health insurance premiums, you may be able to deduct your Medicare premiums (including **Part B** and **Part D**).

- **Planning Alert!** If you are a partner in a partnership or an S corporation shareholder, and you are paying your 2013 health insurance premiums directly (including Medicare premiums), the IRS says that you should have the partnership or S corporation reimburse you for those premiums **before the end of 2013** to qualify for the *above-the-line* deduction. The IRS also says that, if you are an S corporation shareholder, the premium reimbursement must be included in your W-2. For partners, the premium reimbursement must be treated by the partnership as a “guaranteed payment.”

Establishing A New Retirement Plan For 2013. Calendar-year taxpayers wishing to establish a qualified retirement plan for 2013 (e.g. profit-sharing, 401(k), or defined benefit plan) *generally* must adopt the plan **no later than December 31, 2013**. However, a SEP may be established by



the due date of the tax return (including extensions), and a SIMPLE plan must have been established no later than October 1, 2013.

Self-Employed Business Income. If you are self-employed, it continues to be a good idea to defer income into 2014, if you believe that your marginal tax rate for 2014 (including the new .9% Additional Medicare Tax and the new 3.8% tax on Net Investment Income) will be equal to or less than your 2013 marginal tax rate. If deferring 2013 income to 2014 will save you overall taxes, and you use the cash method of accounting, consider delaying year-end billings until 2014.

- **Planning Alert!** If you have already received the check in 2013, deferring the deposit does not defer the income. Also, you may not want to defer billing if you believe this will increase your risk of not getting paid.

FINAL COMMENTS

Please contact us if you are interested in a tax topic that we did not discuss. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. Our firm closely monitors these changes. In addition, please call us before implementing any planning ideas discussed in this letter, or if you need additional information.

- **Note!** The information contained in this material represents a general overview of tax developments and should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.

Circular 230 Disclaimer: Any tax advice contained in the body of this material was not intended or written to be used, and cannot be used, by the recipient for the purpose of **1)** avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions, or **2)** promoting, marketing, or recommending to another party any transaction or matter addressed herein.