

TaxTalk

A client newsletter with tax tips & information

Summer 2008

Take Advantage of Tax Savings in a Down Market

Know when you have a deductible loss

Just because the stock market lost money, doesn't mean you have a deductible loss. As long as you hold on to an investment, you only have a loss on paper. It's only when you actually sell the investment that you have a transaction to report on your tax return.

Fortunately, the tax law allows you to offset your capital gains by your capital losses. You can avoid or minimize taxable gains by selling two investments, one at a gain and the other at a loss.

However, an investment sold at a loss is not gone forever. If you believe it was a good long-term investment, you can buy it back. This strategy works very well if the price of the investment either stays the same or goes down even further. For example, let's say you sold 100 shares of ACME stock, which you purchased for \$3,000, and receive \$2,500 in cash proceeds from the sale. You can use the \$500 capital loss to offset capital gains or other income. Now, let's assume you want to buy back the ACME stock because it's a good long-term investment. If the price of 100 shares of ACME is \$2,500 or less, you can use the proceeds from the first sale to buy the stock back without having to provide any additional money. Caution: You must wait at least 31 days after the sale to repurchase the stock, otherwise the loss is not allowed.

If you are an IRA owner over age 59½, you can take advantage of the down market by taking distributions (either voluntary or required) of actual investments from your IRA, instead of the cash. You'll also escape the additional ten-percent premature distribution penalty. If there are investments within your IRA account that you want to hold long-term, but the value is currently down, you may want to consider having them distributed to you. Be aware that this is a taxable event and the fair market value of the investment must be reported on your tax return. However, any appreciation earned after the distribution will not be taxable until you sell the investment. This provides several advantages:

- If you sell the investment, it will be taxed at the lower capital gains rate, which may be less than the rate for your IRA distribution;
- It reduces your IRA account so your required minimum distributions may be smaller in future years; and,
- You can gift that investment to a person or a charity at a later date.

As always, consult your investment and tax advisor prior to taking any actions.

Important Dates:

August 15

Minnesota Property Tax Refund

September 15

3rd Quarter Corporate and Individual Estimated Income Tax Payments

October 15

Extended Individual Income Tax Returns

October 15

Second Half of MN Property Taxes for Non-Farmers

November 17

Second Half of MN Property Taxes for Farmers

December 15

4th Quarter Corporate Estimated Income Tax Payments

January 15, 2009

4th Quarter Individual Estimated Income Tax Payments

January 31, 2009

Second Half of WI Property Taxes



Farming as a Corporation or Partnership? Hold Land in Some Type of Entity?

By: Ann McMahon, CPA, Principal Tax Specialist

MINNESOTA DEPARTMENT OF AGRICULTURE REQUIRES FILING A CORPORATE FARM APPLICATION FOR ANY ENTITY WITH INTEREST IN AG LAND.

If you farm as an entity or hold farm land in a partnership or other form of business entity in Minnesota, you need to be aware that Minnesota Statute 500.24 requires that all corporations, limited partnerships, LLC's, trusts, pension or investment funds must be certified by the Minnesota Department of Agriculture before engaging in farming or having any interest in farm land. General partnerships need

not file. The law was passed in 1971 to encourage and protect the family farm. It restricts business entities with more than five non-family members from engaging in farming or holding interests in farm land.

It has come to our attention that some entities which are required to register with the Minnesota Department of Agriculture are not in good standing - either because they were never registered when originally formed or have not continued to do the required

annual updates. This filing requirement is sometimes confused with the Secretary of State annual renewal. These are two separate filings. It is important to remain in good standing with the Department of Agriculture.



Otherwise, fines may be imposed. You may not be able to renew any Green Acres contracts. The property tax divisions of most counties are now checking the status of all entities.

You would be required to file the Minnesota Corporate Farm Application if your entity has interest in any farm real estate, whether owned or leased. These applications are due on April 15th of each year. If you had filed a Minnesota Corporate Farm application at inception, you should have been

receiving a renewal each year to update. These reminders are separate and in addition to the Secretary of State annual filings. The renewal certificate sent out earlier this year by the Minnesota Department of Agriculture included a

PIN number. If there were no changes to either the front or back pages of the renewal certificate, you can update online. If there are any changes, you must fill out the certificate and mail it back. Second notices were mailed in May. If you have not been getting these reminders, a new application should be sent in.

The application form and more information

about filing requirements are available at <http://www.mda.state.mn.us/licensing/corpfarmreport.htm>. You can also search the website to see if your entity is in good standing.

Feel free to contact any one of the AgStar tax specialists for help in preparing this form. We would be glad to help you through it.

Are You Audit Proof?

By Kathy Blonigen, EA and Ronald Woltjer, EA



It may be time to start thinking about – and planning for – audits again. For many years there has been relatively low activity in the audit arena. The Little Falls, MN office, for example, has only seen seven audits out of more than 16,000 returns prepared since 1996. But this freedom from “Big Brother’s” watchful eye has perhaps made people careless. It’s much easier to let the paper trail go cold if no one is chasing you down.

It’s time to reassess.

The IRS is coming up with several new audit campaigns designed to narrow the estimated \$300 billion tax gap between projected tax collections and what’s being paid now. The IRS continues to increase its projected audit rates overall, with new significance being placed on middle-class individuals (those making \$25,000 to \$100,000), as well as certain business entities (S Corporations and partnerships.)

Another area under attack is one used regularly on qualified farm returns – spousal wages with a 105 benefit plan arrangement. Would you survive an audit?

There is a somewhat exhaustive checklist for those farmers and their wives who are making use of these arrangements as a direct expense on their farm schedules. For instance, has a clear and legitimate employer/employee relationship been established? Have the employees’ actual services and reasonable

compensation been determined and recorded? Who is the health insurance policy holder and who makes the premium payments? These are just a few of the items needed to hold up to IRS scrutiny. The audits below illustrate these issues more clearly.

Last fall, two large Central MN dairies were audited. Both farm businesses had paid the spouse of the owner in commodities and provided them with medical benefits as part of their compensation. One farmer saw both deductions disallowed while the other saw them hold up to audit scrutiny. The difference was a question of details:

- The farmer who paid his wife with bull calves had the commodities allowed because she could demonstrate control, dominion, price risk and independent marketing; the disallowed commodity wage was a percentage of the milk check where independent marketing was not possible and the salary received was an attempt to replace a given dollar amount of cash wages.
- The farmer who had his medical benefits allowed had a uniform, written medical benefit plan that was applied fairly to all full time workers; the disallowed plan was given only to the farmer’s spouse when there were other employees who should have been included under IRS Sec. 105 discrimination requirements.
- The farmer who had his deductions allowed reviewed his situation in detail with his AgStar tax specialist before the audit; the one who had them disallowed went into the audit unprepared. A confident explanation stressing the above principles can deter a more careful look and a challenge.

Both farmers had issued W-2s to their employees and could defend the employer-employee relationship.

The AgStar tax group is strongly recommending that any farm sole proprietor or entity owner review their wage, benefit, and other tax-saving moves to ensure that they are defensible in the case of an audit. Many of these moves have been in use for many years and have saved many thousands of dollars. As the IRS increases their audits, it’s time to get prepared!

Home Mortgage Forgiveness Debt Relief

By: Connie Meier, CPA, Principal Tax Specialist

Homeowners whose mortgage debt was partly or entirely forgiven during 2007 may be able to claim special tax relief by filling out Form 982. Normally, debt forgiveness results in taxable income. But under the Mortgage Forgiveness Debt Relief Act of 2007, enacted December 20, taxpayers may exclude debt forgiven on their principal residence if the balance of their loan was less than \$2 million. The limit is \$1 million for a married person filing a separate return.

The new law applies to debt forgiven in 2007, 2008 or 2009. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, may qualify for this relief. In most cases, eligible homeowners only need to fill out a few lines on Form 982 (specifically, lines 1e, 2 and 10b).

The debt must have been used to buy, build or substantially improve the taxpayer's principal residence and must have been secured by that residence. Debt used to refinance qualifying debt is also eligible for the exclusion, but only up to the amount of the old mortgage principle, just before the refinancing.

Debt forgiven on second homes, rental property, business property, credit cards or car loans does not qualify for the new tax-relief provision. In some cases, however, other kinds of tax relief, based on insolvency, for example, may be available. See Form 982 for details.

Borrowers whose debt is reduced or eliminated receive a year-end statement (Form 1099-C) from their lender. For debt cancelled in 2007, the lender was required to provide this form to the borrower by Jan. 31, 2008. By law, this form must show the amount of debt forgiven and the fair market value of any property given up through foreclosure.

Borrowers should carefully check the Form 1099-C, and notify the lender immediately if any of the information shown is incorrect. Borrowers should pay particular attention to the amount of debt forgiven (Box 2) and the value listed for their home (Box 7).

Thinking of Selling Your Corporation?

Carefully review your options before making a decision

When it comes time to sell your corporation, you have two options. You can either sell the corporation stock or have the corporation sell the assets and distribute the proceeds. The tax implications of the two sales are very different. If you choose to sell the stock, you are the seller. The corporation is not affected by the transaction. The new owner steps into your shoes as the shareholder and takes over the existing corporation. If your share of the proceeds exceeds your basis in the stock, you'll have a capital gain to report on Schedule D.

If the corporation sells its assets, the corporation may close its doors. The assets could be sold to one person who intends to operate a business similar to yours, but does not want your corporation. The corporation return will reflect the sale of the assets. When the corporation liquidates, your share of the cash will be reported on Form 1099-DIV as a liquidating distribution. You'll use Form 1099-DIV to report the sale of your stock on Schedule D. Selling the assets of the corporation could result in double taxation. The sale of the assets is taxable to the corporation and the liquidating distribution is taxable to the shareholder.

If you are selling the corporation stock for a loss, you may qualify for special tax treatment. It's a good idea to review the tax consequences of the sale with your tax advisor before making a move.



Business Provisions of the Economic Stimulus Act of 2008 – An Incentive to Spend?

By: Sherry Rae, CPA, Senior Tax Specialist

Not only did the Economic Stimulus Act of 2008 provide an economic stimulus payment to qualifying taxpayers, the act also contained two provisions to encourage capital purchases by business owners. In order for businesses to take advantage of these new provisions, the business will have to purchase qualifying property in 2008.

Section 179 Expensing

One of the provisions is an increase in the Section 179 expensing of depreciable property. For 2008, the limit for expensing depreciable property has been increased to \$250,000 from the previous limitation of \$128,000. The Act also increased the total amount of new property the business may purchase before the phase out of Section 179 applies. If your business purchases more than \$800,000 of qualifying property in 2008, your allowable Section 179 limit will be phased out dollar for dollar for all amounts over \$800,000. The new law does not alter the Section 179 expensing for sport utility vehicles, which remains at \$25,000. Qualifying property for Section 179 expensing includes new and used equipment purchases.

Special Depreciation Allowance

Bonus Depreciation Rules allow the business owner to depreciate an additional 50% depreciation of the adjusted basis of property acquired and placed in service in 2008. Note that for property to qualify for this special allowance, it must be new property with a depreciable life of 20 years or less. Also, there is no Alternative Minimum Tax (AMT) penalty for taking this special allowance.

Example: If the business owner purchases qualifying 7-year property for \$300,000, the owner (in the 25%) tax bracket could see ordinary income tax savings of \$69,420, computed as follows:

| | | |
|-----------------------------|-----------|--|
| Purchase price: | \$300,000 | |
| Section 179 deduction: | \$250,000 | (up to \$250,000 – basis is reduced to \$50,000) |
| Bonus depreciation: | \$25,000 | (50% of the remaining basis– basis is reduced to \$25,000) |
| Regular MACRS depreciation: | \$2,678 | |
| Total deductions: | \$277,678 | |
| Tax benefit @ 25%: | \$69,420 | |

These depreciation provisions can be great tax planning tools. As there are specific requirements that must be met and pitfalls to avoid, it is always a good idea to speak with your tax advisor to make sure that your decisions will have the expected outcome.



FREE! 3-Year Tax Analysis!

Make sure your finances are in good health!

A certified AgStar tax specialist will review your tax returns from the last three years to determine if there are ways you can save money on your taxes. Give your local AgStar office a call today to arrange your free, no obligation analysis.

Reimbursing Your Employees for Business Expenses

What method should you choose?

Attracting and keeping good employees is a goal in any business. One way to make life easier for your employees is to have an easy-to-use reimbursement plan. Travel, transportation, moving, and educational expenses are common reimbursable expenses. As the employer, you have the option to set up an accountable or nonaccountable reimbursement plan. Under either plan, you can deduct many of the business expenses paid to or for employees. However, the plan you choose can make a big difference to your employees.

Qualified items that are reported under an accountable plan are not included in the employee's wages. Under this plan, you issue a check to the employee, who accounts to you for the expenses and returns the excess advance, if any. You take the deduction for the business expense, but the expense never shows up on the employee's W-2. For a meal expense, the employee must provide you with the time, place, and business purpose. You are allowed to give and deduct the meal per diem amount given to the employee. If the meal per diem is within the federal guidelines, no income is reported on the employee's W-2, even if he or she doesn't spend the entire amount. Keep in mind that you and your relatives are not allowed to use the per diem method.

Under a nonaccountable plan, you grant a certain amount of money to the employee to cover business expenses. The employee's W-2 income includes the expense money. You deduct the expense money as wages paid to the employee. The employee can deduct the allowable business expenses on his or her personal return, subject to a limit. Tax wise, the accountable plan is generally easier and more advantageous for the employee.



TaxTalk

Is provided as a service to AgStar clients. This information is based on reliable sources and checked for accuracy. However, you should consult your tax advisor for application to your individual circumstances.

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Quick Tips

- Beginning July 1, 2008, the standard mileage rates for the use of a car (including vans, pickups, or panel trucks) are:
 - 58.5 cents per mile for business miles driven;
 - 27 cents per mile for all miles driven for medical or moving purposes; and
 - 14 cents per mile for all miles driven for charitable purposes.
- If your tax refund was too high or too low, adjust your withholding so it doesn't happen again next year. You can file a revised Form W-4 with your employer at any time to increase or decrease the number of exemptions you claim. The more exemptions you claim, the less tax your employer withholds from your wages, resulting in a smaller refund. Decreasing the number of exemptions results in more withholding and a larger refund.
- It doesn't appear that a college education will get cheaper any time soon. Look into establishing a qualified tuition plan for your children. The earnings in the account grow tax-free. As long as the funds are spent on qualified education expenses, there are no tax consequences. Plus, there may be an added tax benefit at your state level.
- Are you planning on making any substantial gifts? Talk to your tax preparer first. Gifts with values exceeding \$12,000 must be reported to the IRS.
- Not only will you save money at the pump if you buy a hybrid vehicle, you may be eligible for a credit on your income tax return.
- If your child has earned income from a summer job, you may want to consider opening an IRA for him or her. There is no minimum age for contributing to an IRA. The only requirement is that the person making the contribution has earned income and has not reached age 70½.
- First-time home buyers get a tax credit of up to \$7,500 for buying a main home after April 8, 2008 and before July 1, 2009.

Tax Referral Incentive: receive a gift certificate of up to \$50!!

If you refer someone to AgStar Financial Services Tax Team and they have their tax return prepared by AgStar, you will receive a gift certificate of up to \$50.00!!! Call all your friends, neighbors, relatives, etc... it's as simple as that.

AgStar Tax Referral

Tax Specialist Name: _____

Phone Number: _____

Person Who Introduced Us: _____

Address: _____

City, State, Zip: _____

Phone Number: _____



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