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Resource Report

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Greetings!

Ghosts, goblets and gremlins! October is almost over, so let's get our spook on. We are celebrating the completion of tax extensions as the October 15th deadline has just passed, but also planning for the upcoming year. In this month's Resource Report, we'll learn about stock market volatility, deferred compensation and Affordable Care Act (ACA) purposes.

All information contained in our newsletters can always be found and downloaded from the GALLINA website. Contact us today at 1.800.350.6774 or solutions@gallina.com.

Alerts, Changes and Updates

How Many Employees Does Your Business Have for ACA Purposes?

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It seems like a simple question: How many full-time workers does your business employ? But, when it comes to the Affordable Care Act (ACA), the answer can be complicated.

The number of workers you employ determines whether your organization is an applicable large employer (ALE). Just because your business isn't an ALE one year doesn't mean it won't be the next year.

50 is the Magic Number

Your business is an ALE if you had an average of 50 or more full time employees — including full-time equivalent employees — during the prior calendar year. Therefore, you'll count the number of full time employees you have during 2016 to determine if you're an ALE for 2017.

Under the law, an ALE:

- Is subject to the employer shared responsibility provisions with their potential penalties, and
- Must comply with certain information reporting requirements.

Calculating Full-Timers

A full-timer is generally an employee who works on average at least 30 hours per week, or at least 130 hours in a calendar month.

A full-time equivalent involves more than one employee, each of whom individually isn't a full-timer, but who, in combination, are equivalent to a full-time employee.

Seasonal Workers

If you're hiring employees for summer positions, you may wonder how to count them. There's an exception for workers who perform labor or services on a seasonal basis. An employer isn't considered an ALE if its workforce exceeds 50 or more full-time employees in a calendar year because it employed seasonal workers for 120 days or less.

However, while the IRS states that retail workers employed exclusively for the holiday season are considered seasonal workers, the situation isn't so clear cut when it comes to summer help. It depends on a

number of factors.

We Can Help

Contact us for help calculating your full-time employees, including how to handle summer hires. We can help ensure your business complies with the ACA.

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GALLINA Tax Bites

Stock Market Volatility Can Cut Tax on a Roth IRA Conversation

This year's stock market volatility can be unnerving, but if you have a traditional IRA, this volatility may provide a valuable opportunity: It can allow you to convert your traditional IRA to a Roth IRA at a lower tax cost.

Traditional IRAs

Contributions to a traditional IRA may be deductible, depending on your modified adjusted gross income (MAGI) and whether you participate in a qualified retirement plan, such as a 401(k). Funds in the account can grow tax-deferred.

On the downside, you generally must pay income tax on withdrawals, and, with only a few exceptions, you'll face a penalty if you withdraw funds before age 59½ — and an even larger penalty if you don't take your required minimum distributions (RMDs) after age 70½.

Roth IRAs

Roth IRA contributions, on the other hand, are never deductible. But withdrawals — including earnings — are tax-free as long as you're age 59½ or older and the account has been open at least five years. In addition, you're allowed to withdraw contributions at any time tax- and penalty-free.

There are also estate planning advantages to a Roth IRA. No RMD rules apply, so you can leave funds growing tax-free for as long as you wish. Then distributions to whoever inherits your Roth IRA will be income-tax-free as well.

The ability to contribute to a Roth IRA, however, is subject to limits based on your MAGI. Fortunately, anyone is eligible to convert a traditional IRA to a Roth. The catch? You'll have to pay income tax on the amount you convert.

Saving Tax

This is where the “benefit” of stock market volatility comes in. If your traditional IRA has lost value, converting to a Roth now rather than later will minimize your tax hit. Plus, you’ll avoid tax on future appreciation when the market stabilizes.

Of course, there are more ins and outs of IRAs that need to be considered before executing a Roth IRA conversion. If your interest is piqued, discuss with us whether a conversion is right for you.

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Offer Deferred Compensation? Be Careful about Compliance

Congress enacted Section 409A of the Internal Revenue Code more than 10 years ago in response to scandals involving Enron and other corporations. If you offer employees deferred compensation as a benefit, it’s critical to stay familiar with Sec. 409A and its many requirements.

Applicable Plans

Sec. 409A applies to most nonqualified deferred compensation arrangements, including bonus plans, supplemental executive retirement plans, certain severance pay plans, and equity-based incentive compensation plans — such as stock options, stock appreciation rights (SARs) and phantom stock.

The requirements don’t apply to qualified retirement plans, such as 401(k) plans. They also don’t apply to most welfare benefit plans — for example, vacation, sick leave, compensatory time, disability and death benefit plans.

Main Requirements

For covered arrangements, Sec. 409A governs the timing of deferral elections and restricts the ability of participants to alter the form or timing of the payments. The law and regulations in this area are complex, but here’s a quick summary of the main requirements:

- Employees must make deferral elections before the beginning of the year in which they earn the compensation being deferred (except for certain performance-based compensation).
- Benefits must be paid either: 1) on a specified date, 2) according to a fixed payment schedule, or 3) upon the occurrence of a specified event, such as death, disability, termination of employment, change in ownership or control of the employer, or an unforeseeable emergency.

- Sec. 409A prohibits plans under which the CEO or board of directors has discretion over the timing or form of payment of vested benefits.

- Once compensation is deferred, payments can be delayed (by five years or more) but not accelerated. Elections to delay benefits (or change the form of payment) must be made at least 12 months in advance.

In addition, employers must maintain written plan documentation that's consistent with Sec. 409A's requirements.

Documentation and Operations

It's important to review your deferred compensation arrangement for Sec. 409A compliance regularly. Please call us for help evaluating your plan's documentation and operations.

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Industry Focus: Agribusiness

Avoiding Cost Segregation Recapture Tax

Here are some ways to lower any depreciation recapture when disposing of a property. Savvy tax professionals who recommend cost-segregation studies are well aware of the recapture tax rules that require taxpayers to pay back any tax deductions for accelerated depreciation when the property is sold. After all, in the right situation, the net present value of those tax savings far exceeds any recapture tax payback. While the effects of a cost-segregation study can magnify recapture issues, tax professionals should consider a number of worthwhile opportunities to reduce or avoid recapture tax that is realized upon sale of property.

Recapture: An overview
The recapture tax was enacted to close a tax loophole that arose by allowing taxpayers to take depreciation deductions that offset ordinary income while taxing gains from the subsequent sale of those depreciated assets at lower capital gain rates. The loophole was closed by taxing gains attributable to depreciation deductions previously taken at rates higher than those available for capital gains. Depreciation recapture often requires that a portion of the gain be taxed at rates as high as 25% (for Sec. 1250 real property) and

39.6% (for Sec. 1245 property). Nonetheless, many taxpayers are under the impression that all gains generated from the sale of real estate are taxed at capital gain rates, the maximum of which is 20%. (These rates do not apply to corporations.)

Valuation of personal property at time of sale
When a property is sold, the fair market value of Sec. 1245 property in a building, which must be taxed as ordinary income, may be uncertain. The seller can minimize recapture by allocating more of the sale price to Sec. 1250 real property instead of the Sec. 1245 property. In many situations, Sec. 1245 property in a building may have little to no value. For example, carpeting and certain other Sec. 1245 property installed a decade ago likely has minimal worth, especially if the new owner has plans to replace it. As such, it would be appropriate to allocate only a nominal amount of the building's sale price to carpeting. Thus, proper valuation of the Sec. 1245 property may yield lower overall recapture tax.

Click here to read more.

Article made available by NSAC: http://info.gallina.com/e/51952/ost-segregation-recapture-tax-/7s7xtp/401832586

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