

THE

JOURNAL

WithumSmith+Brown

WS+B

Winter 2003

IT'S THAT TIME OF YEAR — AGAIN!

As you undertake your year-end tax planning, don't forget about the 2003 Tax Law changes:

INDIVIDUALS

- Reduction in tax rate on dividends and capital gains to 15%
- Expansion of the 10% individual income tax bracket
- Reduction in tax rates – top rate is now 35%
- Marriage penalty relief
- Increase in child tax credit to \$1,000
- Increase in individual AMT exemption

BUSINESSES

- Increase in fixed asset expensing amount to \$100,000
- 50% additional first year depreciation (increased from 30%)

The WS+B Tax Department can help you understand and make the best of the newest tax law revisions. Please contact one of our tax specialists to discuss how the changes may affect you, your family and your business.

NEW YORK CITY AMNESTY — Available For Business

Beginning October 20, 2003, the New York City Department of Finance opened an amnesty period for New York City business and excise taxes. The amnesty period will remain open through January 23, 2004.

Under the NYC amnesty program, the Department of Finance will waive all unpaid penalties, reduce the interest charges for qualifying taxpayers, waive all interest charges prior to October 20, 2000, and bar criminal prosecution once amnesty is granted. Amnesty is generally available for tax years or other tax periods ending on or before December 31, 2001. The taxes covered under amnesty include the General Corporation Tax, the Commercial Rent Tax, and the Unincorporated Business Tax, as well as several other taxes. Real estate taxes, personal incomes taxes, and sales and use taxes are not covered under this amnesty program.

Additional information can be found on the NYC tax amnesty web site at <http://www.nyc.gov/html/dof/html/txamn.html> or by contacting any member of the WS+B Tax Department.



ALSO IN THIS ISSUE:

- Split-Dollar Plans
- Over-The-Counter Drugs
- WS+B Earns Award
- New Princeton Address

SPLIT-DOLLAR PLANS/EQUITY ARRANGEMENTS – Consider IRS Safe Harbor Options to Limit Taxation

By the WS+B Tax Department

If you have a split-dollar life insurance arrangement, you may want to consider taking advantage of one of two IRS “**safe harbors**” available for split-dollar/ equity arrangements entered into before **January 28, 2002**.

Under the “roll-out” safe harbor, if you terminate your split-dollar arrangement before Jan. 1, 2004, you will not be taxed on the net equity increase in the policy. Note that this safe harbor applies to terminating the arrangement, not the policy underlying the arrangement. The “roll-out” safe harbor is most beneficial for mature policies – generally ones that have been outstanding for at least ten years – because those policies will likely have built up enough equity to pay back the employer loan and keep the policy in force.

But if the policy underlying your arrangement doesn’t have much equity build-up, the policy can be continued after Jan. 1, 2004, and you will not be taxed on the net equity increases in the policy upon termination of the arrangement under the second safe harbor, provided you **treat the arrangement as a series of loans** from your employer to you.

A split-dollar arrangement will be treated as either the life insurance owner providing economic benefits to the nonowner, or the nonowner **making loans to the owner**. The person named as the policy owner is generally considered the owner of the policy. A nonowner is any person (other than the owner) having an interest in the policy (except for a life insurance company acting only as the issuer of the policy). A split-dollar arrangement will be treated as a loan if: (1) payment is made by the nonowner to the owner; (2) the payment is a loan under general principles of Federal tax law or a reasonable person would expect the payment to be repaid to the nonowner; and (3) the repayment is made from, or secured by, either the policy’s death benefit or its cash value. **Loan treatment will generally occur in a collateral assignment arrangement.**

If the split-dollar arrangement is not treated as a loan, the contract’s owner is treated as providing economic benefits to the nonowner. **Economic benefit treatment will generally occur in an endorsement arrangement.** Depending on the circumstances of the arrangement, these economic benefits may be treated as compensation, dividends, gifts, or another transfer having different tax consequences. Economic benefits may also then be treated as transferred from the nonowner to some other person, such as the payment of compensation from an employer to an employee and then a gift from the employee to the employee’s children.

Upon the transfer of the policy to a nonowner, the nonowner is considered to receive generally the cash value of the policy minus any amounts paid for the policy and any benefits that were previously included in the nonowner’s income. **If the split-dollar arrangement is treated as a loan, the owner is considered the borrower and the nonowner is considered the lender.** If the split-dollar loan is a below-market loan, then interest will be

imputed at the applicable federal rate. This amount is taxable compensation to the employee (nonowner), and generally will be deductible to the owner employer (owner); however, no deduction will be allowed in a corporation-shareholder arrangement. The employee is then treated as paying the imputed interest back to the employer, resulting in taxable income to the employer. This imputed interest payment by the employee will generally be considered personal interest and thus not deductible.

For additional information about the new tax treatment of split-dollar arrangements, contact the WS+B Tax Department.

OVER-THE-COUNTER DRUGS CHEAPER FOR PLAN PARTICIPANTS – Change Retroactive to January 1, 2003

In Revenue Ruling 2003-102, the IRS recently announced that over-the-counter drugs can be paid for with pretax dollars through the use of health care flexible spending accounts.

Pharmaceuticals products are increasingly becoming available over-the-counter, without a prescription. Many health plans do not cover the cost of over-the-counter medication. While an over-the-counter drug is less expensive than the prescription drug, the cost to many consumers increases because the price paid by the consumer for an over-the-counter drug is greater than the co-payment required when the drug was covered by insurance. This is especially an issue for individuals who remedy chronic health problems by regularly taking an over-the-counter medicine.

Revenue Ruling 2003-102 explains that the statutory exclusion for reimbursements of employee health expenses is broader than the itemized deduction for medical expenses (which does not apply to nonprescription drugs). Thus, the guidance clarifies that employer reimbursements of employee health expenses including nonprescription drugs (i.e., reimbursements through health FSAs and Health Reimbursements Arrangements), are excluded from income like other employer reimbursements of employee health expenses. This will result in savings to consumers with access to employer plans who purchase nonprescription drugs. If the FSA does not permit this reimbursement, the plan must be amended.

However, for purposes of the itemized medical expenses deduction, the cost of such over-the-counter drugs continues to be non-deductible. In addition, the costs of dietary supplements that are merely beneficial to the employee's health are not excluded from income. Employers should review their health care benefit plans to ensure their employees are obtaining this benefit. Coverage of over-the-counter medication should result in savings to employer and employee alike.

The Journal is published by WithumSmith+Brown, Certified Public Accountants and Consultants, for clients and friends of the firm. The information contained in this publication is for informational purposes and should not be acted upon without professional advice. Please contact any one of our offices with your inquiries.
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Where Success BeginsSM

**NEW PRINCETON
ADDRESS!**

We're growing...
Please note that as of
mid-December 2003,
our Princeton office
will be moving to a
larger office location:
**5 Vaughn Drive
Princeton, NJ 08540**
The following numbers
remain unchanged:
Phone **609.520.1188**
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***WS+B'S WEB SITE AND PR CAMPAIGN
EARN COMMUNICATIONS AWARDS***

WithumSmith+Brown received two "Jasper" awards from the Jersey Shore Public Relations and Advertising Association (JSPRAA) at the association's 2003 awards dinner held this fall. WS+B earned a silver (second place) award in the category of Business Web Site Development for its newly redesigned external Web site, which can be found at www.withum.com. The firm also received a gold (first place) award for the public relations campaign it developed to promote its new Web site.

WS+B's entries were judged on quality, creativity and effectiveness by a panel of experts in the advertising, public relations, graphic design and communications industries. For 29 years, the Jasper Award competition has been honoring excellence in communications by New Jersey-based companies or New Jersey-based agencies. Founded in 1965, JSPRAA has dedicated itself to the professional growth and development of members and to establishing the highest standards of excellence in communications in central New Jersey and throughout the state.