

the **WithumSmith+Brown** Journal

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The American Jobs Creation Act of 2004 – What You Need to Know

WS+B Tax Department

Signed into law on October 22, “The American Jobs Creation Act of 2004” provides \$137 billion in corporate tax incentives over the next ten years, and is fully funded with “offsets” – meaning tax and fee increases. The major provisions include:

- For tax years beginning in 2004 and 2005, the Act allows taxpayers to elect to take state and local general sales and use taxes as an itemized deduction, instead of taking an itemized deduction for state and local income taxes.
- An increase in the allowable number of S corporation shareholders from 75 to 100, and specific family members may be treated as one shareholder.
- For transactions after the enactment date, the Act provides specific exclusions from FICA and FUTA wages for remuneration on account of the transfer of stock pursuant to the exercise of an incentive stock option, under an employee stock purchase plan, or any disposition of such stock. (Thus, under the Act, FICA and FUTA taxes do not apply to the exercise of a statutory stock option.)
- Taxpayers, (except trusts, estates and certain noncorporate lessors) can elect to expense up to \$100,000 per year through 2007 of the cost of certain eligible personal property used in the trade or business. This annual expense is reduced dollar-for-dollar by the amount of qualified expensing-eligible property placed in service during the tax year in excess of \$400,000. After 2008, the maximum annual expense will be reduced to \$25,000.
- In general, taxpayers are permitted to reduce their alternative minimum tax (AMT) liability by the full amount of their AMT foreign tax credits, as opposed to the 90% limitation.
- A phase out of the Extraterritorial Income Exclusion allowing to 80% of the exclusion in 2005, 60% in 2006, and none thereafter. Exceptions apply for binding contracts and foreign corporations electing to be treated as domestic corporations for federal tax purposes.
- A “manufacturing deduction” that is equal to a percentage of the income earned from manufacturing undertaken in the U.S. This is calculated using the lesser of “qualified production activity income” or taxable income without regard to this deduction. The amount will be multiplied by 3% in 2005-2006, 6% in 2007-2009 and 9% thereafter. The deduction, allowable for AMT as well, cannot exceed 50% of domestic wages.

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Are You Paying Too Much for Your Life Insurance?

By Anthony M. Sardis, JD, LLM
President, IIAG

Trustees have a difficult job. They must manage trust assets to ensure that they continue to meet the trust objectives. Many factors influence the ability of the trustee to discharge his or her responsibility including changes in the market and also in beneficiary needs.

Trust-owned life insurance is an often overlooked asset because many view it as a commodity instead of a dynamic financial instrument. In fact, well over 70% of trustees do not have guidelines for managing life insurance and may have not even reviewed the policies within the past five years.

Dramatic changes have occurred in the life insurance industry in recent years that should necessitate a thorough review of existing policies.

- ◆ Lower than illustrated earnings due to the financial markets
- ◆ Lower mortality costs due to longer life expectancies
- ◆ Improved expense efficiencies
- ◆ Enhanced benefits and options

Example – Cost Savings

A 34-year old male in good health purchases \$1,000,000 of 20-year term insurance for \$707 dollars per year. At age 37, he purchases the same coverage for \$565. Not only did he save 25% (\$2,414 over the life of the contract), he also extended his coverage to age 57 and will be able to convert to a permanent product for an additional three years in the event his health deteriorates.

Example – Enhanced Benefits

A 75 year-old male owned three policies with combined death benefit of \$827,000. The combined cash value was \$225,000. All policies were to lapse at age 88; but, the insured was optimistic about his longevity. The three policies were reduced to one using the cash value from the existing insurance. The new policy provides \$945,000 of coverage to age 120 with no additional premium.

Through its Policy Audit Program, the Insurance & Investment Advisory Group will audit a trust's policy at no cost. IIAG will also survey the market for funding options if better suited to the trust objectives. For more information, please contact Tony Sardis at 732-668-7144.

WS+B recently acquired an ownership interest in the Insurance & Investment Advisory Group. IIAG offers a complete line of insurance products to help your client's wealth. IIAG represents many of the country's leading manufacturers, which enables it to provide unbiased, needs-based solutions. We believe that this business model is uniquely suited to serve the needs of the consumer.



The Growing Demand for Litigation Support

By Noël J. Capuano, CPA, CVA
WS+B Manager

You've sought your CPA's advice on tax and accounting issues, but did you know there is a growing niche within the accounting profession that specializes in a broad range of services called "litigation support services"? These litigation support specialists can help you in a variety of legal situations.

Take for example a business with multiple owners. A properly structured Buy-Sell Agreement can help to avoid a myriad of potential conflicts should one of the owners become incapacitated, divorced, or just looking to retire. The agreement should address issues such as what events will trigger the buyout and how often the business should be valued. Having these issues clearly spelled out in a Buy-Sell Agreement is much like taking out an insurance policy on your most valued asset. While your attorney will most likely draw up the agreement, it is your valuation expert who will prepare the valuation.

As a business owner you might say, "Why do I need a valuation? I know what my business is worth." The reality is, however, that your partner(s) may have a drastically different opinion as to the value. A specialist in business valuation can prepare a valuation report that will clearly explain the relevant factors that affect the value of your business. This report will become the cornerstone of negotiations between you and your partners in the event that one of you chooses to leave.

Another example relates to a more personal matter: divorce. Typically people don't think to seek an accountant's advice during a divorce; however, there are a number of areas where a specialist in marital dissolution can provide services that will be invaluable to both you and your attorney. These services include evaluating settlement offers and their respective tax ramifications, determining the value of a business owned by one or both spouses, calculating the marital standard of living and developing post-marital budgets.

Many individuals will unfortunately find themselves a party in a civil litigation matter at some point in their lives. In many instances these cases involve alleged economic damages. A litigation support specialist can help to quantify these damages and assist your attorney in evaluating the credibility of an opposing expert's assertions.

In addition to their CPA license, many accountants focusing on litigation support services obtain certifications in specialty areas such as CFE (Certified Fraud Examiner), CVA (Certified Valuation Analyst) and ABV (Accredited in Business Valuation).

For more information on how litigation support professionals can assist you, please call your local WS+B office.

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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WS+B Wins Communications Award

WithumSmith+Brown received a silver “Jasper” Award from the Jersey Shore Public Relations and Advertising Association (JSPRAA) at the 2004 Jasper Awards dinner held on October 8 at PNC Bank Arts Center, Holmdel, NJ. WS+B earned the silver award in the category of Special Event Planning for an event the firm held as part of its 30th anniversary celebration.

WS+B’s entry was judged on quality, creativity and effectiveness by a panel of experts in the advertising, public relations, graphic design and communications industries. For 30 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.



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Don’t forget that New Jersey has made numerous business and individual tax law changes for 2004 as well. To help you understand just how different your tax position will be in 2004 and 2005, please contact a member of WS+B’s Tax Department.