

Real Estate Tax Update

November 17, 2010

Presented by: Pat McCown, CPA
Tax Partner at LGT



Patient Protection and Affordable Care Act

AKA – Healthcare Reform Act



Tax Provisions of the Patient Protection and Affordable Care Act

- Codification of Economic Substance Doctrine & Penalties
- Increased Threshold for Medical Expense Itemized Deductions (7.5% to 10%)
- Small Business Tax Credits to Offset the Impact of the Employer Mandate (25 or Less Employees)
- W-2 Forms Required to Include Information on Employee Health Benefit
- Special Cafeteria Plans for Small Employers



Tax Provisions of the Patient Protection and Affordable Care Act (cont.)

- Limitation on Health Flexible Spending Arrangements under Cafeteria Plans
- Increase in Additional Tax on Distributions from HSA or Archer MSA
- Increased Medicare Tax – Employer Withholding Responsibilities
- New Medicare Tax on Unearned Income
- New Excise Tax on Employer Based “Cadillac” Group Health Plans
- Additional 1099 Reporting Requirements



Increased Threshold for Medical Expense Itemized Deductions

- Effective 1/1/2013, the Adjusted Gross Income (“AGI”) threshold for medical expense itemized deductions increases from 7.5% to 10%
- Individuals age 65 or older would be able to continue claiming the itemized deduction for medical expenses at 7.5% of AGI through 2016



Employer Mandate

- Employers with 50 or more employees must
 - Offer their full-time employees health insurance coverage
 - Fund that insurance at a specific level
 - 60% of costs of coverage
 - Provide insurance that is affordable to all employees
 - Does not exceed 9.5% of employees total household income
 - Otherwise penalties will be imposed
- Effective 2014



Employer Mandate - Penalties

- Two Tiers of Penalties Effective 2014
 - Penalty for failure to provide health insurance coverage
 - \$2,000 per employee per year multiplied by the number of employees exceeding 30 (\$2,000 is prorated 1/12 for each month coverage is not provided)
 - For example company employees 100 persons and does not provide coverage; penalty equals \$2,000 times 70 (100 – 30) which equals \$140,000
 - Penalty for failure to provide affordable coverage
 - \$3,000/year per employee for whom cost of coverage exceeds 9.5% of household income (prorated 1/12 per month)
 - Penalty is capped at the formula for no coverage



Employer Mandate – Practical Considerations

- How will the employer know what the employee's total household income equals?
- What impact will employee turnover have during the year?
- The new individual mandate will likely cause more employees to elect coverage thus increasing overall cost for employers



W-2 Forms will be Required to Include Information on Employee Health Benefits

- Effective 1/1/2011, employers will be required to disclose the value of health benefits provided to the employee on the employee's annual W-2



Increased Medicare Tax – Employer Withholding Responsibilities

- Effective 1/1/2013, in addition to the current Medicare withholdings of 2.9% per employee's wages, employers will withhold a 0.9% Medicare surtax on every employee whose wages exceed \$200,000
- Employers will not be required to take into account a Spouse's wages if the combined income exceeds the \$200,000 threshold



New Medicare Tax on Unearned Income

- Effective 1/1/2013, individuals, estates and trusts will be subject to a Medicare tax on unearned income
- Individuals will be taxed 3.8% on the lower of:
 - Net Investment Income (Includes capital gains, interest, dividends, and other unearned income) or
 - Excess of Modified AGI over threshold amounts (See below)
- Threshold amounts are as follows:
 - \$250,000 – Married Filing Jointly
 - \$125,000 – Married Filing Separately
 - \$200,000 – Single Filers



2010 Small Business Jobs Act

- Applies to Most Businesses (name is misleading)
- Enhanced Business Expensing (Sec. 179 Expensing)
 - Under the new law, for tax years beginning in 2010 and 2011, the \$250,000 limit is increased to \$500,000 and the investment ceiling to \$2,000,000
 - Includes certain types of real property, only up to \$250,000
 - Qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property
- 100% exclusion of gain from the sale of small business stock for qualifying stock acquired after date of enhancement and before January 1, 2011
- Extension of 50% bonus first-year depreciation
 - The new law extends the first-year 50% write-off to apply to qualifying property placed in service in 2010



Proposed Carried Interest Statute Sec. 710

- Significantly change the way partners that contribute services to the partnership are taxed
- Investment Services Partnership Interest applies to partners that provide any of the following:
 - Advising regarding investing in, purchasing, or selling a “specified asset” or
 - Managing, acquiring, or disposing of any “specified asset” or
 - Arranging financing related to the acquisition of a “specified asset”
 - “Specified Asset” includes securities, commodities, and real estate
- Gain on disposition of assets is now ordinary income to partners with an “investment services partnership interest”
- Loss is only ordinary to the extent aggregate net income allocated to that interest exceeds aggregate net loss for all prior years.
- It appears the legislation has stalled and is unlikely to pass in the lame duck session



My Contact Info

Pat McCown

Partner

Lane Gorman Trubitt LLP

214-461-1416

pmccown@lgt-cpa.com

