



CERTIFIED PUBLIC ACCOUNTANTS

Tax News Flash

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2010 Year-End Planning for Individuals Presents Unique Challenges

As the end of 2010 quickly approaches, individual taxpayers should start to execute valuable year-end tax strategies. However, year-end tax planning for 2010 is especially unique, and a bit more complicated, due to the current uncertainty looming over a number of expiring tax cuts.

Several individual tax incentives in the form of deductions, credits, and exemptions, as well as reduced tax rates for long-term capital gains and qualified dividends, are scheduled to expire at the end of 2010. Moreover, the marginal income tax rates for most taxpayers - especially individuals in the top two income tax brackets - are scheduled to rise. The 10 percent tax rate bracket is scheduled to disappear. Another complication to year-end tax planning is the uncertainty caused by the estate and gift tax laws, and their future.

[Read the full article on this page at AcuityLLP.com.](#)

2010 Year-End Tax Planning for Businesses

2010 year-end tax planning involves consideration of tax laws going into effect in 2011 as much as it involves tax provisions effective this year. Some tax incentives that expired for businesses at the end of 2009 have been resurrected for 2010 (and 2011 in some cases), including bonus depreciation and small business expensing. However, with higher tax rates set for 2011, traditional planning techniques, such as acceleration and deferral, may require more thought this year especially. This article explores some planning opportunities, challenges, and issues presented by year-end tax planning for 2010.

[Read the full article on this page at AcuityLLP.com.](#)

New Guidance on HARPTA (Withholding Hawaii Tax on Sales of Hawaii Realty)

When Hawaii real estate is sold and the buyer is a nonresident or foreign company, the HARPTA law (Hawaii Real Property Tax Act) generally requires 5% of the gross sales price to be withheld and paid over to the Department of Taxation. Questions commonly come up regarding HARPTA, and Tax Facts 2010-1, the Department's plain language explanation of the provision, provides answers.

[Read the full Tax Facts here.](#)

Some of the more interesting questions that have come up, and their answers, are:

- Q. I'm the buyer of real property and I know that the seller is a Hawaii resident because he's my brother. Do I still have to withhold?
- A. Yes, *unless* the seller provides you with a completed Form N-289 showing his tax identification number and affirming that he is a Hawaii resident. (Q&A 2)
- Q. Does HARPTA apply to foreclosures?
- A. Yes, it applies whenever there is a disposition of Hawaii real estate, voluntary or otherwise. In many foreclosures, the sale will qualify for an exemption from withholding because there will be no cash proceeds over the closing costs. In that case, however, the seller will need to submit Form N-288B ten days before closing so a withholding determination can be made before the transaction closes. If this does not happen, withholding is required. (Q&A 13, 20)
- Q. Does HARPTA apply even when the seller is taking a loss?
- A. If the seller can establish that the seller will realize NO gain (or a loss) upon the disposition, the seller will need to submit Form N-288B ten days before closing so a withholding determination can be made before the transaction closes. If this does not happen, withholding is required. (Q&A 14)
- Q. Does this mean that I can get out of withholding whenever the sales price is less than the secured debt?
- A. No. It's possible for the seller to realize gain even when the sales price is less than the secured debt. If the seller realizes some gain, then withholding is required. (Q&A 24)
- Q. Does HARPTA apply to section 1031 exchanges?
- A. Yes, it does; but there are exceptions. If the seller can establish that the seller will realize NO gain upon the disposition, then the seller can furnish Form N-289 and the buyer will not have to withhold. If there is any amount of gain, withholding of the full 5% of the amount realized is required. (Q&A 29)
- Q. If the seller or escrow has withheld, but the amount of the withholding is excessive, can I as a seller ask for the money back?

- A. Yes, as a seller you (not escrow) can file for a tentative refund on Form N-288C. But you will still need to file a tax return for the year in which the sale occurred. (Q&A 7, 23)

If you have questions about any of these news items, your client service team at Accuity can bring you the resources that you may need.

Please do not hesitate to contact your client service team for more information or Thomas Yamachika at (thomas.yamachika@accuityllp.com)



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