Forensic Accounting Today

Newsletter of Ron J. Anfuso, CPA/ABV - An Accountancy Corp.

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Issue 7

Federal Tax changes for 2012

There are a few Federal tax law changes for 2012 of which you, as a law firm employer, should be aware. These affect three areas: payroll taxes, employee benefits, and taxes on your profits.

Payroll Taxes: As of December 23, 2011, Congress acted to extend the payroll tax rates for Social Security for a period of two months. However, the wage base by which the Social Security portion is determined will increase for inflation by 3.6 percent, up from $106,800 to $110,100. This translates to around $200 per employee for those whose wages are above the wage base. Those of you who are self-employed will see a rise of about $400 to cover Medicare and Social Security, half of which will be deductible.

Employee Benefits: You will be able to continue to provide employees most of the recent years' tax breaks. A few, however, may increase due to Cost of Living Adjustments (COLAs) and some others may decrease due to changes in the laws. For example, contributions to qualified profit-sharing and simplified employee pension plans (SEPs) will increase by two percent. Benefits under pension plans will be allowable up to $200,000, which is a $5,000 increase.

Taxes on Profits: The new cost-of-living adjustments to Federal income tax brackets will allow you to receive more income without being pushed into a higher tax bracket. To compensate for inflation, some deductions, such as the deductible portion of long-term care, the personal and dependency exemption, and the standard deduction, have also been raised.

Unfortunately, however, not all is good news. The amount you will be allowed to deduct under IRS Code §179 the first year from the purchase of equipment has been reduced from $500,000 to $139,000.

If you have questions or concerns regarding these or other tax-related matters, you are certainly welcome to contact me.

Gross Cash Flow and Business Valuation Issues: Analyzing Perquisites: Part 2

By Ron J. Anfuso, CPA, ABV, CFF, CDFA, FABFA*

In the the last issue of our newsletter, I discussed how perquisites impact the determination of the real income of one or both parties in a dissolution case. What I will present in this issue is an actual case study and how to determine whether uncovered perquisites are taxable.

A Case Study

In some cases, it can be difficult to determine which expenses should be considered as personal or business. There are business owners who are particularly sophisticated in their understanding of financial accounting methods and who may intentionally conceal personal expenses while claiming them as ordinary and necessary business expenses. For example, in a recent case in which I was the designated expert, in addition to many of the common perquisites described in our previous newsletter, I found:

Independent Contractors: The business owner coded more than $50,000 of expenses to independent contractors. Upon inspection, however, the expenses were for landscaping his personal residence, installation of cabinets in his personal residence, improvements at his personal residence, pool service for his personal residence, and maintenance of his personal residence.

Marketing: A review of the paid bills and general ledgers reflected that the alleged marketing expenses were actually Hallmark purchases and plumbing expenses for the party's personal residence.

Dues & Subscriptions: This category included country club dues, which are no longer deductible as business expenses pursuant to the Internal Revenue Service's rules.

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Meet Ron J. Anfuso, CPA/ABV

Ron Anfuso graduated, with honors (Magna Cum Laude, GPA 3.81) from National University, San Diego, California with a Bachelor of Arts Degree in 1990. After graduation he was employed as a senior accountant at Gursey | Schneider, L.L.P. His areas of experience include Forensic Accounting and litigation support services in marital dissolution and civil/commercial litigation matters.

* For an explanation of these titles, please visit our website or request a copy of Issue 3 of Forensic Accounting Today.

LA County Bar
Family Law Symposium
May 19, 2012

Analyzing Complex Form W-2s and Paystubs and How to Interpret the Data as It Relates to Inputting into Support Calculation Software
Panel Chair– Ron J. Anfuso

Imagine...

A Forensic Accountant who actually returns your phone calls within 24 hours

Ron J. Anfuso, CPA/ABV
An Accountancy Corporation

Enjoy Breakfast or Lunch ON ME

If you are an attorney who focuses on Family Law and you are located in Southern California, I will meet with you in person to answer all of your questions. There is no obligation to use our services. Take me up on it. I promise you it will be worth your time.

Ron J. Anfuso, CPA, ABV, CFF, CDFA, FABFA

Perquisites- Case Study and Taxes: *Continued from page 1*

Repairs & Maintenance: The client expensed more than $30,000 as repairs and maintenance, which, again, included costs for landscaping his personal residence, installation of water services at his personal residence, lawn care for the personal residence, installation of over 50 large trees and of windows at his personal residence, and other personal expenses unrelated to the operation of the business under examination.

In this particular case, the perquisites accounted for more than 32 percent of the total gross cash flow available for support. Had a thorough investigation into the nature of those expenses not been performed, that amount would not have been considered in the total gross cash flow available for support, significantly understating it.

Taxable or Non-taxable?

Once perquisites are uncovered, whether they should be treated as taxable or non-taxable depends upon the specific facts and circumstances of the case in question. Although case law exists that holds that the benefits should be included as taxable income, it is my opinion that the deductions from gross income for Federal and State income taxes should bear an accurate relationship to the tax status of the parties. Unless taxes are actually being paid on the perquisites, they should be considered as non-taxable.

An example of where a perquisite could be considered taxable would be dissolution-related legal fees. Once the dissolution has concluded, the expense would no longer exist and that portion of the business net income would be increased accordingly. The income would then be taxed as wages, or other business taxable income. This should be considered in any case where the category of the expense that is deemed a perquisite is non-recurring.

For most recurring perquisites utilized to reduce business income and provide a personal benefit for the operating spouse, it is appropriate to treat them as non-taxable. There are some benefits that have no specific direct economic benefit to the employee or business owner. Examples of such benefits would include:

- Accrued sick pay, which cannot be converted to cash
- Company-provided parking
- Employer-provided health club
- Ability to choose a flexible work schedule

To the extent that any of the aforementioned benefits reduces the party's living expenses, they may be considered at the discretion of the court as additional income.

Summary

Perquisite testing is a complex issue, but the existence of perquisites can mean a significant adjustment to cash flow available for support. The practicing family law attorney should be familiar with the common types of perquisites and their affect on business valuation and gross cash flow available for support.