



Subject: Strategic Law Group's "STRATEGIC INSIGHTS"

Welcome to the inaugural edition of our firm's monthly e-mail newsletter which we have aptly named "Strategic Insights." Each month we hope to bring you timely tax and legal news and topics. With great fanfare, we open this inaugural edition with a highlights tour through the Obama Administration's Tax Proposals for Fiscal Year 2011 (the so-called Green Book).

On February 1, 2010, the Obama Administration released a 153 page tome listing a wide variety of proposals for changes to current tax laws, most of which involve new revenue "enhancers." While Congress typically has little appetite for dealing with tax issues in an election year, there is no telling what mischief it might get up to once the mid-term election season is over in early November. Here are a few of the proposed changes that could have a significant affect on individuals and small business owners like you.

Taxation of Capital Gains on Small Business Stock. Under current law individuals who invest in the stock of qualified small businesses can exclude 50% of the gain they realize upon the sale of stock in a qualified small business if they hold the stock for a minimum of 5 years. Unfortunately, however, the combination of taxing the included portion of the gain at a 28% rate and treating the excluded portion as a tax preference item for the AMT, pretty much eliminates the benefit of the exclusion for most taxpayers.

The administration's proposal would increase the exclusion percentage to 100% and eliminate the AMT preference, thereby eliminating capital gains on small business stock held for a minimum of 5 years.

Treatment of Cell Phones as "Listed Property." Under current law cell phones, along with automobiles, are "listed property" when used in a trade or business, and thereby subject to onerous record keeping requirements in order to substantiate deductions attributable to their use.

The administration's proposal would exclude cell phones from being classified as listed property, and in addition, would make the value of the personal use of a business cell phone a non-taxable perk.

Increased Disclosure of Foreign Financial Assets. Under current law persons having an interest in a foreign bank account must comply with the so-called FBAR regulations (which require the filing of information returns with the Department of the Treasury). As you have probably read in the papers, non-compliance with the FBAR reporting requirements has recently become a major focus of the IRS.

The administration's proposal would increase the reporting on foreign bank accounts by also requiring taxpayers to list them on their tax returns and would impose a \$10,000 penalty for non-compliance.

Information Reporting on Payments to Corporations. Under current law payments of more than \$600 to corporations need not be reported on form 1099.

The administration's proposal would require reporting of payments in excess of \$600 to all corporations that aren't tax-exempt.

Information Reporting of Rental Property Expenses. Under current law payments of more than \$600 to noncorporate service providers are only subject to information reporting if the taxpayer holds real estate as part of a trade or business. Taxpayers who merely hold real estate for investment need not report such payments.

The administration's proposal would require reporting of such payments by any taxpayer reporting income from rental real estate.

Expansion of Electronic Filing of Tax Returns. Under current law corporations with \$10 million or more in assets and that file at least 250 tax returns during any calendar year are required to file all of their returns electronically.

The administration's proposal would require all corporations and partnerships that are required to file a Schedule M-3 to file all of their returns electronically.

Expansion of IRS Power to Classify Workers as Employees. Under current law it is often difficult to determine whether a particular worker can properly be classified as an independent contractor rather than an employee for tax purposes. Moreover, the IRS has been prohibited by statute from issuing general applicable guidelines in this area.

The administration's proposal would permit the IRS to issue guidelines on worker classification and to adopt additional rules in this area to improve compliance.

Elimination of Valuation Discounts for Estate and Gift Tax Purposes. Under current law it is generally possible to obtain substantial discounts for gift and estate tax purposes when transferring assets from one generation to the next if those assets are held through family owned entities, such as limited partnerships and limited liability companies ("LLCs").

The administration's proposal would effectively eliminate such discounts in the great majority of cases.

Elimination of the Bush Tax Reductions for High Income Taxpayers. Under current law a number of tax reductions enacted during the Bush administration are scheduled to expire at the end of 2010.

The administration has proposed to permit the tax reduction expire, which would result in the maximum tax rate going back to 39.6% for taxable incomes over \$373,650, the second highest rate returning to 36% for taxable incomes over \$250,000 (\$200,000 on an individual return), and the return of the limitation on itemized deductions and the personal exemption phase-out.

Increase in the Capital Gains Rate on High Income Taxpayers. Under current law the reduced rates applicable to qualified dividends and capital gains (0% and 15%, respectively) will expire at the end of 2010, resulting in dividend rates going back to a maximum rate of 39.6% and capital gains increasing to 20%.

The administration has proposed permanently extending the current rates for taxpayers making less than \$250,000 (\$200,000 for single taxpayers).