THE SMALLBIZ BUILDER

PADGETT
THE SMALL BIZ PROS

April 2008 | PADGETT BUSINESS SERVICES® | Vol. 6, No. 4

This Month:

2nd Quarter 2008 Due Dates

April 15:
● *Individuals:* 2007 Form 1040 due, or file Form 4868 for automatic 6-month extension. Last day to contribute to an IRA and ESA for 2007. First installment of 2008 estimated tax due. 2007 Form 709, US Gift Tax Return, due if more than $12,000 was gifted to any individual other than a spouse or charity in 2007.
● *Partnerships:* 2007 Form 1065 due, or file Form 7004 for automatic 6-month extension.
● *Calendar-Year C Corporations:* First installment of 2008 estimated tax due.

April 30:
● *Employers:* File Form 941 for 1st quarter 2008.

May 15:
● *Partnerships & S Corporations:* Form 8752 due for those using a fiscal year under a Section 444 election.

June 16:
● *Individuals:* Second installment of 2008 estimated tax due for individuals. 2007 Form1040 due for U.S. citizens or resident aliens living and working (or on active military duty) outside the U.S. and Puerto Rico, or file Form 4868 for 6-month extension.
● *Calendar-Year C Corporations:* Second installment of 2008 estimated tax due.

Walking the Line between Business and Personal

The line between business and personal assets and expenses is a fine one and is often crossed in a closely held business, but that's exactly what the IRS often looks for in an audit. While usually unintentional, it can prove costly.

For example, you purchase a building in your own name and lease it to your S corporation. Your attorney helps you draft a lease where the corporation pays you $5,000 a month (a fair rental). You're responsible for taxes, utilities, etc. The arrangement works fine for a while, but some time later things start to go awry. Here are some actions taxpayers have taken that can cause both tax *and* legal problems:

- the lease is never updated and some years later the $5,000 monthly rent is far less than the market
- the corporation encounters a cash flow problem and stops paying rent, or pays rent only when cash is available
- the corporation pays some of the operating expenses of the property directly instead of by the property owner
- the owner uses the property for personal purposes without changing the rent or reimbursing the corporation

Some mistakes can be more costly than others, but many can be corrected. If you are concerned that you may have crossed over the line between business and personal, please contact us to discuss the situation from a taxation standpoint. If legal assistance is needed, talk to your attorney.

Robert W Anderson, E.A
144 Central Street, Suite 202
Gardner, MA 01440

Tell: (978) 632-2324
Fax:(978) 630-8691
email: bob@padgettgardner.com

Do You Have to File a Gift Tax Return?

If you gave any one person gifts in 2007 valued over $12,000, you must report the total gifts on Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*. In some cases you may have to pay tax on the gifts. Gifts include money and property, including the use of property without expecting to receive something of equal value in return. If you sell something at less than its value or make an interest-free or reduced-interest loan, you may be making a gift. Gifts to your spouse don't count, nor do tuition or medical expenses paid directly to an educational or medical institution for someone's benefit. If you are married, both you and your spouse can give separate gifts of up to the annual limit to the same person without making a taxable gift. You must file a gift tax return if you and your spouse elect to split a gift, (e.g., you give your daughter $18,000 and want the gift to be made half by you and half by your spouse).

Medical Reimbursement Plans and Reasonable Compensation

If you have a written medical reimbursement plan, you can reimburse your employees' medical expenses according to the plan. In one case, the taxpayer was a sole proprietor with such a plan. The only employee covered under the plan was the taxpayer's spouse who worked on the farm and received $1,998 in wages and some $9,500 of reimbursed medical expenses. The IRS argued that the sole proprietor wasn't entitled to a business expense deduction for the employee benefit plan expense reimbursement because he failed to prove that the total compensation paid to his spouse was reasonable in amount. The Court agreed with the IRS. The Court found the sole proprietor failed to prove that any compensation paid to his wife in excess of $1,998 was reasonable in amount because he didn't document any hours or times the wife may have performed services. The employment agreement for the wife didn't set the number of hours she was required to work to earn her pay and benefits, nor did she keep a time log recording the number of hours she worked for the farm. The sole proprietor didn't establish what she earned on an hourly basis because they didn't prove how many hours she worked, and they didn't establish what employees doing comparable work on other similarly sized farms in the vicinity were paid hourly.

Gambling Winnings

You spent a day at a nearby casino last year and won a small amount of money and didn't get a W-2G. Do you have to report the amount as income? You bet you do! Just because you don't receive a W-2G (or a 1099 for other income) doesn't mean you don't have to report it. Every dollar of income is reportable. That includes prizes from a game show, radio station, church raffle, etc. The fair market value of amounts you receive in property are reportable. You can deduct losses for the year, if you saved those losing tickets or kept a diary, but only on Schedule A as a miscellaneous itemized deduction. You can't simply offset losses against winnings and just report the net amount.

PADGETT BUSINESS SERVICES®

WHERE YOUR SUCCESS TAKES ROOT℠

PADGETT BUSINESS SERVICES® is dedicated to meeting the tax, government compliance, profit & financial reporting and payroll needs of businesses with fewer than 20 employees in the retail and service sector of the economy. This publication suggests general business planning concepts that may be appropriate in certain situations. It is designed to provide complete and accurate information to the reader. However, because of the complexities of the tax law and the necessity of determining whether the material discussed herein is appropriate to your business, it is important you seek advice from your Padgett office before implementing any of the concepts suggested in this newsletter.

PENALTY NOTICE: As required by U.S. Treasury regulations, you are advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.