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DECEMBER 2008 – ESTIMATE REMINDER LETTER & TAX UPDATE

4TH QTR ESTIMATED TAX PAYMENTS (due Thursday, Jan 15, 2009)

For those of you who make quarterly estimated income tax payments, your 4th federal and state payments are due on or before **Thursday, January 15, 2009**. If you send in your 4th state tax payment **on or before December 31, 2008**, you may be eligible for a tax deduction on your 2008 federal tax return. Paying your 4th federal tax payment early provides no tax benefit.

REQUIRED MINIMUM DISTRIBUTIONS SUSPENDED FOR 2009

A new tax act expected to pass by year-end, *the Worker, Retiree, and Employer Recovery Act*, suspends the need to take required minimum distributions from qualified defined contribution plans and IRAs for the calendar year 2009 only (does not apply to 2008).



**Happy
New Year**

STOCK LOSSES

With the significant decline in the stock market this year, I have received several inquiries regarding the handling of stock losses. Following are some general rules regarding stock losses.

- **Decrease in Value** - You can not deduct the decrease in the “value” of your stock portfolio (including the decrease in the value of your IRA or other retirement plan). You are only allowed to recognize a loss if you actually “sell” stock at a loss or if it becomes worthless.
- **Worthless Stock/Securities** – A loss is allowed only in the year the stock or security becomes completely worthless. Partial losses are not allowed. Worthless securities are treated as though they were sold on the last day of the tax year. Generally, a security is considered worthless at the time it first has no liquidation value and no reasonable hope or expectation exists that it will become valuable at some future date (based on facts and circumstances).
- **Annual Loss Limitations** – For federal tax purposes, you are only allowed to deduct up to \$3,000 of “net” stock losses against ordinary income each year. Any remaining unused losses are carried forward indefinitely to future years. For example, if for 2008 you have stock gains of \$2,000 and stock losses of \$10,000, your “net” capital loss for the year 2008 is \$8,000. You will be allowed to deduct \$3,000 of losses in 2008 and carry forward \$5,000 of losses to future tax years.
- **Wash Sales** - If you sell stock or securities for a loss and buy substantially identical stock or securities back within the 30-day period before or after the sale date, the loss cannot be claimed for tax purposes. This rule is designed to prevent taxpayers from using the tax benefit of a loss without parting with ownership in any significant way. The disallowed loss amount is added to the cost of the new stock. Thus, the disallowed amount can be claimed when the new stock is finally disposed of.

Example. Harry buys 500 shares of ABC Corp. for \$10,000 and sells them on June 5 for \$3,000. On June 30, he buys 500 shares of ABC again for \$3,200. Since the stock was “bought back” within 30 days of sale, the wash sale rules apply. Harry cannot claim his \$7,000 loss. His basis in his “new” 500 shares is \$10,200 (the actual cost plus the \$7,000 disallowed loss). If only a portion of the stock sold is bought back, then only that portion of the loss is disallowed. Thus, if Harry had only bought back 300 of the 500 shares (60%), he would be able to claim 40% of the loss on the sale (\$2,800 under the facts involved). The remaining \$4,200 of loss disallowed under the wash sale rules would be added to Harry's cost of the 300 shares.

Note that while wash sale losses cannot be claimed, gains cannot be avoided. That is, if you sell stock for a gain and buy it right back, you must still report the gain—no special rule applies.

DISCLAIMER REGARDING TAX ADVICE PER IRS CIRCULAR 230, DISCLOSURE: To ensure compliance with requirements imposed by the IRS, this is to inform you that, to the extent that this communication (including any attachments) includes any tax advice, it is not intended or written to be used, and cannot be used or relied on, by the recipient or any other party for the purpose of 1) avoiding penalties that may be imposed by the Internal Revenue Code or 2) promoting, marketing or recommending to another party any transaction or matter communicated to you.