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As a member of Beall Barclay, Don is a Certified Public Accountant/Personal Financial Specialist (CPA/PFS), who is involved in the firm's

tax, bookkeeping and consulting services. Already a CPA, Don gained the education and experience required to be credentialed as a Personal Financial Specialist (PFS) by the American Institute of Certified Public Accountants. He focuses his expertise on strategic planning and tax minimization services. Specifically, Don works to position his clients for long-term success by advising on tax strategy development and overall business structuring.

2011 Year-end Tax Planning Resource

As 2011 draws to a close, there is still time to reduce your 2011 tax bill and plan ahead for 2012. This letter highlights several potential tax-saving opportunities for you to consider. We would be happy to meet with you to discuss specific strategies and issues.

Basic Numbers You Need To Know

Because many tax benefits are tied to or limited by adjusted gross income (AGI)—IRA deductions, for example—a key aspect of tax planning is to estimate both your 2011 and 2012 AGI. Also, when considering whether to accelerate or defer income or deductions, you should be aware of the impact this action may have on your AGI and your ability to maximize itemized deductions that are tied to AGI. Your 2010 tax return and your 2011 pay stubs and other income- and deduction-related materials are a good starting point for estimating your AGI.

Another important number is your “tax bracket,” i.e., the rate at which your last dollar of income is taxed. The tax rates for 2011 are 10%, 15%, 25%, 28%, 31%, and 35%. Although tax brackets are indexed for inflation, if your income increases faster than the inflation adjustment, you may be pushed into a higher bracket. If so, your potential benefit from any tax-saving opportunity is increased (as is the cost of overlooking that opportunity).

That said, the following pages contain a few actions that may help you save tax dollars if you act before year-end. These moves may benefit you regardless of what Congress does on the major tax questions of the day. Not all actions will apply in your particular situation, but you may benefit from many of them. We can narrow down the specific actions that you can take once we meet with you to tailor a particular plan. In the meantime, please review the following list and contact us at your earliest convenience so that we can advise you on which tax-saving moves to make.

Year-End Moves for Individuals

Traditional IRAs: Individuals who are not active participants in an employer pension plan may make deductible contributions to an IRA. The annual deductible contribution limit for an IRA for 2011 is \$5,000. For 2011, a \$1,000 “catch-up” contribution is allowed for taxpayers age 50 or older by the close of the taxable year, making the total limit \$6,000 for these individuals. Individuals who are active participants in an employer pension plan also may make deductible contributions to an IRA, but their contributions are limited in amount depending on their AGI. For 2011, the AGI phase-out range for

deductibility of IRA contributions is between \$56,000 and \$66,000 of modified AGI for single persons (including heads of households), and between \$90,000 and \$110,000 of modified AGI for married filing jointly. Above these ranges, no deduction is allowed. A deduction maybe allowed for a spouse if certain requirements are met.

Maximize Retirement Savings: In many cases, employers will require you to set your 2012 retirement contribution levels before January 2012. If you did not elect the maximum 401(k) contribution for 2011, you can increase your amount for the remainder of 2011 to lower your AGI in order to take advantage of some of the tax breaks described above. In addition, maximizing your contribution is generally a good tax-saving move.

Flexible Spending Accounts: Increase the amount you set aside for next year in your employer's health flexible spending account (FSA) if you set aside too little for this year. Don't forget that you cannot set aside amounts to get tax-free reimbursements for over-the-counter drugs, such as aspirin and antacids.

Deferring Income to 2012

If you expect your Adjusted Gross Income (AGI) to be higher in 2011 than in 2012, you may benefit by deferring income into 2012. Deferring income may be advantageous so long as the deferral does not bump your income to the next bracket. Some ways to defer income include:

Delay Billing: If you are self-employed and on the cash-basis, delay year-end billing to clients so that payments will not be received until 2012.

Interest and Dividends: Interest income earned on Treasury securities and bank certificates of deposit with maturities of one year or less is not includible in income until received. To defer interest income, consider buying short-term bonds or certificates that will not mature until next year. If you have control as to when dividends are paid, arrange to have them paid to you after the end of the year.

Accelerating Income into 2011

In limited circumstances, you may benefit by accelerating income into 2011. For example, you may anticipate being in a higher tax bracket in 2012, or perhaps you will need additional income in order to take advantage of an offsetting deduction or credit that will not be available to you in future tax years. Note, however, that accelerating income into 2011 will be disadvantageous if you expect to be in the same or lower tax bracket for 2012. In any event, before you decide to implement this strategy, we should “crunch the numbers.”

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Standard Deduction Planning: Deduction planning is also affected by the standard deduction. For 2011 returns, the standard deduction is \$11,600 for married taxpayers filing jointly, \$5,800 for single taxpayers, \$8,500 for heads of households, and \$5,800 for married taxpayers filing separately. If your itemized deductions are relatively constant and are close to the standard deduction amount, you will obtain little or no benefit from itemizing your deductions each year. But simply taking the standard deduction each year means you lose the benefit of your itemized deductions. To maximize the benefits of both the standard deduction and itemized deductions, consider adjusting the timing of your deductible expenses so that they are higher in one year and lower in the following year. You can do this by paying in 2011 deductible expenses, such as mortgage interest due in January 2012.

Charitable Contributions: Consider making your charitable contributions at the end of the year. This will give you use of the money during the year and simultaneously permit you to claim a deduction for that year. You can use a credit card to charge donations in 2011 even though you will not pay the bill until 2012. A mere pledge to make a donation is not deductible, however, unless it is paid by the end of the year. Note, however, for claimed donations of cars, boats and airplanes of more than \$500, the amount available as a deduction will significantly depend on what the charity does with the donated property, not just the fair market value of the donated property. If the organization sells the property without any significant intervening use or material improvement to the property, the amount of the charitable contribution deduction cannot exceed the gross proceeds received from the sale.

A special provision gives taxpayers the ability to distribute tax-free to charity up to \$100,000 from a traditional or Roth IRA maintained for an individual who has reached age 70 1/2. Ordinarily, such distributions would be taxable to the individual, who may not be able to offset the income fully because of the percentage limitations on charitable contribution deductions. This provision expires at the end of 2011, so you may want to take advantage of it now.

Kiddie Tax: For 2011, the kiddie tax applies to: (1) children under 18; (2) 18-year old children who have unearned income in excess of the threshold amount, do not file a joint return and who have earned income, if any, that does not exceed one-half of the amount of the child's support; and (3) children between the ages of 19 and 23 and if, in addition to the above rules, they are full-time students. For 2011, the kiddie tax threshold amount is \$1,900.

Capital Gains and Losses: Be sure to review your position on realized gains and losses by the end of the year and take full advantage of any un-realized losses that may be present in your portfolio.

Nonbusiness Energy Property Credit: For 2011, property eligible for the nonbusiness energy property credit includes qualifying windows (including skylights), exterior doors, insulation, metal roofs, advanced main air circulating fans, natural gas, propane, or oil furnace or hot water boilers, and other energy efficient building property that meets certain energy standards. For 2011, the credit is 10% of the cost of the improvement(s) up to a maximum credit of \$500 (therefore, if you took any credit prior to 2011, your total cannot exceed \$500). The property must be installed by the end of 2011 to qualify. For 2011, only \$200 of the credit can be applied to windows. Also, for 2011, the energy standards are relaxed. The credit expires at the end of 2011.

Social Security: Depending on the recipient's modified AGI and the amount of Social Security benefits, a percentage — up to 85% — of Social Security benefits may be taxed. To reduce that percentage, it may be beneficial to defer receipt of other retirement income. One way to do so is to elect to receive a lump sum distribution from a retirement plan and to rollover that distribution into an IRA. Alternatively, it may be beneficial to accelerate income so as to reduce the percentage of your Social Security taxed in 2012 and later years.

Individual Retirement Accounts: Take required minimum distributions (RMD) from your IRA or 401(k) plan (or other employer-sponsored retired plan) if you have reached age 70 1/2. Failure to take a required withdrawal can result in a penalty of 50% of the amount not withdrawn. Individuals age 70 1/2 or older generally must take the required distribution amount out of their retirement account before the end of 2011 to avoid the penalty. If you turned age 70 1/2 in 2011, you can delay the required distribution to 2012, but if you do, you will have to take a double distribution in 2012—the amount required for 2011 plus the amount required for 2012. Think twice before delaying 2011 distributions to 2012—bunching income into 2012 might push you into a higher tax bracket or have a detrimental impact on various income tax deductions that are reduced at higher income levels.

Gifts and Estates: Make annual exclusion gifts before year-end to save gift tax and estate tax. You can give \$13,000 or a married couple can give \$26,000 in 2011 to an unlimited number of individuals free of gift tax. However, you can't carry over unused exclusions from one year to the next. The transfers also may save family income taxes where income-earning property is given to family members in lower income tax brackets who are not subject to the kiddie tax.

Increase your withholding if you are facing a penalty for underpayment of federal estimated tax. Doing so may reduce or eliminate the penalty.

Year-End Moves for Business Owners

Credit for Employee Health Insurance Expenses of Small Employers: For tax years beginning after 2009, eligible small employers are allowed a credit for certain expenditures to provide health insurance coverage for its employees. Generally, employers with 10 or fewer full-time equivalent employees (FTEs) and an average annual per-employee wage of \$25,000 or less are eligible for the full credit. The credit amount begins to phase out for employers with either 11 FTEs or an average annual per-employee wage of more than \$25,000. The credit is phased out completely for employers with 25 or more FTEs or an average annual per-employee wage of \$50,000 or more. The credit amount is 35% of certain contributions made to purchase health insurance.

Work Opportunity Credit: The work opportunity credit is an incentive provided to employers who hire individuals in groups whose members historically have had difficulty obtaining employment. The credit gives a business an expanded opportunity to employ new workers and to be eligible for a tax credit against the wages paid. Recent changes have restricted portions of this credit after 2011.

Equipment Purchases: If you are in business and purchase equipment, you may be eligible to make a "Section 179 Election," which allows you to expense (i.e., currently deduct) otherwise depreciable business property. For 2011, you may elect to expense up to \$500,000 of equipment costs (with a phase-out for purchases in excess of \$2,000,000) if the asset was placed in service during 2011. Also, certain real property can qualify for the expense deduction, but of the \$500,000 limitation, only \$250,000 can be attributed to qualified real property. Note that for assets placed in service in 2011, taxpayers can expense all of their new business equipment purchases under a provision giving taxpayers 100% bonus depreciation, possibly negating the need for the §179 election.

In 2012, the dollar amounts for §179 expensing are scheduled to be \$139,000, with a phase-out amount of \$560,000. Also, the allowance for real property does not apply for 2012. Note that at tax return time, you can choose not to use expensing (or bonus depreciation) for 2011 assets. This is something to consider if tax rates go up for 2012 and future years, and you'd rather have more deductions after 2011 than for 2011.

Set up a self-employed retirement plan if you are self-employed and haven't done so yet. First year plans must be set up prior to December 31, 2011, contributions to the plan may be made as late as October 15, 2012. There is also a small credit that may be available for setting up a new plan.

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Increase your basis in a partnership or S corporation if doing so will enable you to deduct a loss from it for this year. A partner's share of partnership losses is deductible only to the extent of his partnership capital and in some cases partnership debt as of the end of the partnership year in which the loss occurs. An S corporation shareholder can deduct his pro-rata share of an S corporation's losses only to the extent of the total of his basis in (a) his S corporation stock, and (b) debt owed to him by the S corporation.

Electronic Funds Transfer: As of January 1, 2012, a corporation must make its deposits of income tax withholding, FICA, FUTA, and corporate income tax by electronic funds transfer (EFT), including through the IRS's Electronic Federal Tax Deposit System (EFTPS).

These are just some of the year-end steps that can be taken to save taxes. Again, by contacting us, we can tailor a particular plan that will work best for you.

Should You Rehire Workers?

Suppose you let several employees go when your company was struggling. Now that the business has picked up, you might rehire those workers. After all, you can save time and money in the recruitment process and training.

Caution: Be aware of several potential pitfalls. Consider the following issues before you make an offer.

- You may be legally obligated under state law to hire certain employees in the wake of layoffs. Similarly, your company may have a definitive policy in place regarding rehires.
- If you are hiring back certain workers, but not all of them, you could trigger a discrimination lawsuit. Check with your legal advisers.
- Make sure you specify the nature of the job you are rehiring the person to perform. It does not have to be exactly the same job as before.
- The workers you rehire should be able to perform the jobs that satisfy your current needs, not what they did in the past.

No matter what your inclination, do not let guilt factor into the decision. That is not a good way to run your business.

Breaking Up May Be Hard to Do

Tax ramifications when obtaining a divorce

A divorce can be a difficult and emotional process. Besides facing a dramatic change in lifestyle, you must deal with the financial consequences of the

dissolution of the marriage. This includes certain tax implications for each ex-spouse.

Basic premise: State law controls the distribution of assets in a divorce. For residents of the nine community property states—Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington and Wisconsin—the assets you have accumulated during the marriage are divided 50/50. In other words, each spouse is entitled to half of the total community property, minus any liabilities. However, assets owned by either spouse prior to the marriage or assets received by gift or bequest during the course of the marriage are treated as belonging solely to the recipient spouse.

In all other states, assets are split under equitable distribution rules applicable to that particular state. That may work out to a 50/50 split, but not necessarily. Of course, the spouses can create their own legally binding agreement regarding the division of assets.

Generally, there are no federal income or gift-tax consequences to transfers triggered by a divorce. If this tax-free transfer rule applies, the spouse receiving a capital asset assumes its existing tax basis and holding period. Currently, appreciated assets held longer than a year may qualify for a maximum tax rate of 15% if sold before 2013 (0% for certain low-income taxpayers). A capital asset sold at a loss can offset capital gains realized during the year and up to \$3,000 of ordinary income in 2011.

The tax-free transfer can take place before the divorce or at the time it becomes final. Tax-free treatment also applies to postdivorce transfers if made "incident to the divorce" (i.e., within one year after the end of the marriage or, if the transfers are made pursuant to a divorce or separation agreement, within six years after the end of the marriage).

However, be aware of a major exception to the tax-free transfer rule for employer-provided retirement accounts such as 401(k) plans. To qualify for a tax-free transfer, the divorce decree must include special language establishing a "qualified domestic relations order" (QDRO). If a QDRO is used, each ex-spouse is liable for tax on his or her share of the assets. Other special rules apply to distributions of IRAs. See your professional tax adviser for more details.

Finally, you should know that alimony paid as part of a divorce agreement is deductible by the payor and taxable to the recipient. Conversely, child support payments are neither deductible nor taxable. These tax aspects should be factored into the negotiations.

Reminder: This is only a brief summary of several key economic ramifications to consider in a divorce proceeding. Be sure to obtain expert advice every step of the way.