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HOLTZ RUBENSTEIN

adviser



AUGUST, 2001

“Who’s Who in Accounting” On Long Island

Long Island Business News, the prominent business newspaper on Long Island, is out with its list of the “Who’s Who in Accounting,” and of the 16 accounting professionals on the list, two are partners at Holtz Rubenstein & Co.

The newspaper used an independent panel of experts to assemble “the best and brightest of the Long Island accounting scene.” It says those on the list “serve as role models for a new breed of accountants.” The partners and staff of Holtz Rubenstein agree that this applies to both Managing Partner Frank Candia and Senior Tax Partner Alan E. Weiner, who were named to the list.

Frank runs the day-to-day operations of the firm and is an expert in Securities and Exchange Commission filings, with more than 25 years of experience assisting his clients. According to Frank, “I’ve been able to be an extension of their management team.”

Alan is a past president of the 32,000 member New York State Society of Certified Public Accountants (NYSSCPA), an experience the newspaper says he outwardly cherishes. “It was an interesting, exhilarating and rewarding experience,” says Alan.



Alan Weiner and Frank Candia in “Who’s Who in Accounting”

Notable and Quotable

Partners **Alan E. Weiner** and **Howard Weiner** addressed the more than 75 participants from 24 countries at the 2001 conference of DFK International, a worldwide association of independent accounting firms and business advisers, held in Marbella, Spain.

Alan updated his tax peers on recent Federal tax law changes, as they affect international commerce, such as reduced income tax and withholding rates, oddities of the estate and gift tax modifications, and foreign sales income exclusions.

Howard discussed current issues in U.S. Generally Accepted Accounting Principles (“GAAP”) including financial statement changes affecting business combinations, hedge accounting, stock compensation, accounting for website development costs and SEC considerations.

This has been a busy and productive time for Holtz Rubenstein and DFK. Tax Supervisor **Brendan Logan** was a featured speaker at DFK/USA’s annual Multidisciplinary Conference in Oregon. Brendan gave a presentation on key IRS rulings issued in the past year, including split-dollar life insurance policies, suspended research credits, and Real Estate Investment Trusts. Partner **Dan Segal** and Manager **Andy Vuono** also attended the conference.

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In order to avoid Intermediate Sanctions, organization managers should create “a rebuttable presumption of reasonableness,” through “safe harbor” procedures outlined in the regulations.

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Intermediate Sanctions Against Not-For-Profit Management

In January 2001, the Internal Revenue Service issued temporary regulations regarding Intermediate Sanctions. This allows the IRS to sanction organization managers in the event that excess benefit payments are made to/by the organization’s top officials.

In the past, the only option available to the IRS in the event of excess benefit payments was to terminate the tax-exempt status of the organization. Now the IRS has Intermediate Sanctions available, whereby it can impose penalties on the person receiving the excess benefit, as well as on the organization’s managers and other persons involved in the decision-making process, such as the Board of Directors.

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Additional Retirement Plan Provisions of the 2001 Tax Act

1. Tax Credit for Individual Retirement Account Contributions by Low/Middle Income Taxpayers

To entice lower/middle income individuals aged 18 or older who are not dependents or full time students into contributing to certain retirement saving accounts, the Act provides them with a temporary new tax credit beginning in 2002 and ending in 2006. The maximum eligible contribution is \$2,000, with the credit rates and amounts based on adjusted gross income ("AGI") as follows:

AGI						Percent (%) of Tax Credit
Joint		Head of Household		Single / Married, Filing Separately		
Over	Not Over	Over	Not Over	Over	Not Over	
\$ 0	\$ 30,000	\$ 0	\$ 22,500	\$ 0	\$ 15,000	50 %
30,000	32,500	22,500	24,375	15,000	16,250	20
32,500	50,000	24,375	37,500	16,250	25,000	10
50,000		37,500		25,000		0

2. Faster Vesting of Employer Matching Contributions

For plan years beginning after December 31, 2001, the Act provides for accelerated vesting for employer matching contributions. Most employers choose a gradual vesting plan, but for those who experience a high employee turnover rate, especially in the first few years of employment, cliff vesting is a better option. The accelerated vesting schedule is as follows:

Years of Service	Graduated Vesting		Cliff Vesting	
	2001	2002 and Thereafter	2001	2002 and Thereafter
Year 1	0%	0%	0%	0%
Year 2	0%	20%	0%	0%
Year 3	20%	40%	0%	100%
Year 4	40%	60%	0%	100%
Year 5	60%	80%	100%	100%
Year 6	80%	100%	100%	100%
Year 7	100%	100%	100%	100%

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CyberNotes – Livemanuals.com

Livemanuals.com is the website for people who buy the latest, most sophisticated electronic equipment and then can't figure out how to operate it once they bring it home! **Livemanuals.com** features interactive user manuals for some of the most popular and cutting-edge electronics and appliances. You can experience the product online, in a simulated mode, where the buttons work just like the real product and teach you how to use your new DVD, digital camera or high definition television.

In addition, **livemanuals.com** provides phone and fax numbers, e-mail addresses and website links to manufacturers of thousands of different types of appliances and electronic equipment. In many cases you can even download the actual manufacturer's instruction manual. If it turns out that your equipment is broken and you need to find an authorized repair center, **livemanuals.com** will locate the nearest one for you.

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Intermediate Sanctions Against Not-for-Profit Management

To create a rebuttable presumption that compensation levels for the top officials are reasonable and not excessive, it is recommended that those who are responsible for setting compensation levels: (1) base their decisions on comparable salary levels; (2) document the basis of their conclusions; and (3) have the transaction approved by an independent committee of the Board of Directors.

The regulations specify that organizations with gross receipts of less than \$1 million per year need compensation data for three similar positions in similar communities. No specific number is given in the regulations pertaining to organizations that have gross receipts in excess of \$1 million.

Comparable data can be obtained from industry surveys, compensation studies and documented data regarding compensation levels of similar positions at other organizations. Comparability data need **not** be obtained if the compensation levels are **below** fair market value.

Steven T. Miller, director of Exempt Organizations at the IRS, has written an article on the regulations in which he identifies the top officials ("disqualified persons") who are covered under the statute and how to ensure that the organization is in compliance with the standards of reasonable compensation and thus not subject to penalties by the IRS.

In addition, he has developed a checklist regarding comparable data that, by completing it, would establish the presumption that the salaries are reasonable. He notes that the use of this checklist is not required, but recommended, to provide guidance on the procedures to be followed.

Please call Partner Beatrix McKane at 631-752-7400, x-350 to receive a copy of the checklist, and/or to assist you with the implementation of the required policies and procedures.

THE ADVISER CORNER

TAX ADVANTAGES OF BUYING A HOME

By Harold Deiters, CPA

Time and time again the question is asked, "Is it worth it to buy a house or should I rent?" If your financial situation allows it, the smart advice is, "Buy... Buy... Buy." Why? Besides building equity in your personal portfolio it also gives you a tremendous tax advantage.

Monthly payment

Each time a monthly payment is made for an apartment, the money goes directly in the landlord's pocket. By contrast, the monthly payment you make on a mortgage for a house you have purchased builds valuable equity and creates a tremendous tax break for you.

The monthly mortgage payment has four parts: principal, interest, insurance, and taxes. The principal and interest represent payments on your loan. The insurance and taxes are expenses of owning the property and are collected by the bank, which pays on your behalf.

Each part of the monthly payment provides its own advantages. The *principal* increases your equity with every payment. *Interest* on your home mortgage is tax deductible, subject to certain limitations. *Insurance* protects your investment. Your *property taxes* will be determined by many factors, but also are deductible on your income tax return (if you are itemizing and providing that you are not subject to the alternative minimum income tax).

In the early years of a mortgage, most of the monthly payment goes toward paying the interest. Even in the 10th year of a 30 year mortgage, the loan repayment (i.e., principal and interest) is still 75% interest. How much money will this save on your taxes? That is a little more complicated.

Choosing your deduction

If your deductible mortgage expenses (which are the interest and tax portions of the monthly payment) along with your other itemized deductions (i.e., charitable contributions, state and local taxes, and other itemized deductible expenses)

exceed your standard deduction (in 2001 the standard deduction for single taxpayers is \$4,550 and for married taxpayers filing jointly \$7,600), you should itemize your deductions.

As an example: let us assume you are married, you have no deductible medical expenses, your state and local income taxes are \$5,000, and you have charitable contributions of \$2,000. Your total expenses are \$7,000. Since you do not have the tax benefit of home ownership, you would use the standard deduction for a married couple filing jointly of \$7,600.

Points

Points paid when taking out a mortgage are a way of reducing the interest rate. One point is equal to 1% of your mortgage. Generally you can lower your mortgage interest rate by 1/4% for every point you pay. If you were to choose to pay one point on a \$200,000 mortgage it would cost you \$2,000 and lower your interest rate from 7% to 6.75%.

If you expect to stay in your new home for longer than five years, and do not anticipate refinancing your mortgage during that time, paying points is beneficial and will save you money. As an added bonus, points paid are treated as deductible interest expense in the year in which you purchase your principal residence.

Doing the math

Now, let us assume that you bought a home on January 2, 2001 and you took a home mortgage of \$200,000 with an interest rate of 7% over 30 years. You paid no points. The property taxes are \$7,000 a year, and your homeowners' insurance rate is \$50 a month. Your total monthly mortgage payment would be \$1,964.

Since the property taxes on your new home are \$7,000 and the interest portion of your mortgage payments for the first year is \$12,780 (the interest paid will vary each year as you pay down the mortgage), that is an additional \$19,780 of itemized deductions. Assuming, as above, that your state and local income taxes, along with your charitable contributions equal \$7,000, your total deductions would be \$26,780 (\$19,780 + \$7,000). Obviously, it makes the most financial sense to itemize your deductions rather than taking the standard deduction.

SAVE THE DATE

ANNUAL NOT-FOR-PROFIT FISCAL WORKSHOP:

- Cost Finding and Allocation Issues
- New IRS Initiatives & Requirements
- Corporate Compliance
- Update on Lobbying Rules
- Efficiency Reviews
- And More!

Holtz Rubenstein will present the first annual workshop for Directors, CEOs and CFOs of Not-For-Profit organizations:

September 25, 2001

Huntington Hilton

1:30 – 5:30 p.m.

Contact Carolyn Lapidus to reserve your spot! 631-752-7400 x-291 or CLapidus@hrcpa.com.



Now, to finish the equation. Assuming you are married and in the 28% tax bracket, had you not bought the house, your standard deduction would be \$7,600 and you would reduce your tax liability by \$2,128 (\$7,600 x 28%). With the benefit of home ownership, your itemized deductions equal \$26,780 and your tax liability would be reduced by \$7,498 (\$26,780 x 28%). This is the obvious advantage: you own a home while building up equity, and all the while saving \$5,370 on your taxes. Of course, should some of the variables change, so would your savings. Also be aware, even though you reduced your tax bill, you still are out of pocket by \$14,410 (\$19,780 - \$5,370), less the rent you would have paid.

There is more to the question of buying or renting your home than financial. If you do not want to devote the time and energy to maintain the house and property, perhaps you could invest your money in home ownership, but reside in a condo or co-op (which also have tax advantages, but generally have not appreciated as quickly as most homes).

Should you have further questions, please contact Holtz Rubenstein Senior Auditor Harold Deiters, who closed on his first house recently, at 631-752-7400 x-226 or HDeiters@hrcpa.com.

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Additional Retirement Plan Provisions of the 2001 Tax Act

3. Plan Loans to Owners Will Be Available in 2002

For plan years beginning after December 31, 2001, the Act modifies the prohibited transaction rules so as to allow sole proprietors, partners, and S corporation shareholders to take participant loans.

4. Increased Portability for Retirement Accounts After 2001

For plan distributions made after December 31, 2001, the Act allows rollovers among various types of plans:

<u>DISTRIBUTION TYPE</u>	<u>ROLLOVERS ALLOWED IN 2001</u>	<u>ROLLOVERS ALLOWED IN 2002 AND THEREAFTER</u>
1. Eligible rollover distribution from qualified retirement plan.	Can be rolled over to a traditional IRA or another qualified retirement plan, if allowed.	Can be rolled over into <u>any</u> "eligible retirement" plan.
2. Eligible rollover distribution from a Section 403(b) tax sheltered annuity.	Can be rolled over to a traditional IRA or another Section 403(b) tax sheltered annuity, if allowed.	Can be rolled over into <u>any</u> "eligible retirement" plan.
3. Distribution from a traditional IRA other than required minimum distributions.	Can be rolled over to another traditional IRA only, unless the IRA is a "Conduit IRA" (prior rollover from a qualified plan) which can be rolled back into another qualified plan.	Can be rolled over into <u>any</u> "eligible retirement" plan.
4. Distribution from Section 457 (State or local and exempt employer) plan.	No rollovers available.	Can be rolled over into <u>any</u> "eligible retirement" plan.
5. Distributions rolled over within 60 day period after receipt.	No authority by IRS to waive 60 day requirement.	IRS given authority to waive 60 day requirement in certain hardship cases.
6. Distributions of after-tax contributions.	No rollovers available.	After-tax contributions can be rolled over into an IRA or to a defined contribution plan. Rollover to a defined contribution plan must be through a direct trustee-to-trustee transfer and transferee plan must agree to separate accounting. 

DFK Website of the Month

DFK International is the worldwide association of independent accounting and business advisory firms in which Holtz Rubenstein is actively involved. Through our affiliation we are able to provide enhanced services to you, and to other clients throughout the United States and the world.

This month we spotlight the Japanese member of DFK - **Kato Audit Corporation**. Please visit them at www.pp.ij4u.or.jp/~katosabu. 

No Ownership Means No Capital Gains Tax


While they were married, a husband and wife purchased a home and recorded title in her name only. However, the mortgage was recorded in both their names. Years later when they divorced, the divorce decree stated that the residence "shall remain in the names of" both the wife and the husband and that each shall be entitled to one-half of the net proceeds from the future sale of the home. The decree did not require the wife to transfer any portion of the title to the husband. Additionally, the wife was granted exclusive possession of the house and the husband was required to pay the mortgage, taxes, and insurance.

After the home was sold, the IRS argued the language in the decree, coupled with the husband's receipt of one-half of the sales proceeds, demonstrated that the husband owned the residence and was liable for the capital gains tax on one-half of the gain.

The Tax Court, however, stressed the difference between marital property (property acquired and owned by either or both spouses during the marriage) and ownership in such property. According to the court, the right to receive proceeds from the sale of property is not an ownership interest in such property. The court then held that because the wife was not forced to transfer title to the husband, the husband was not an owner of the home. Therefore, he was not liable for the capital gains tax on the sale of the home, and the wife was required to report the entire gain.

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Notable & Quotable

Hundreds of Long Islanders who work with not-for-profit organizations learned about accounting and management issues recently, in a symposium sponsored by New York State Attorney General Eliot Spitzer. Partner **Beatrix McKane** spoke about IRS Form 990. 

This publication is designed to present matters of general interest relating to accounting, taxation and business management. It is not intended to constitute accounting or tax advice. Articles were written by the staff of Holtz Rubenstein & Co., LLP and the American Institute of Certified Public Accountants. Please consult your HR & Co. adviser before taking any specific actions.

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