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New Tax Act

Earlier this year, Congress passed and the President signed into law the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("Act"). Some of the highlights include lower capital gain rates. The maximum capital gain tax rate was reduced to 15% from 20%. For taxpayers in lower income brackets, the rate falls to 5% and to zero in 2008. These new rates apply only to long-term investment assets held for at least one (1) year and sold after May 6, 2003. Short-term gains are still taxed at the ordinary rate. Dividend rates were also reduced.

"Qualified" dividends will be taxed at the taxpayers regular capital gain rate. The dividend tax for low income investors is reduced and will disappear in 2008. "Qualified" dividends are those paid out from profits that have already been taxed at the corporate level. Dividends from bond funds and mutual funds are actually considered in trust and do not qualify.

Even though the rate on dividends has been reduced to decrease some of the tax cost of C-corporations, limited liability companies and S- corporations are still less costly entities. The highest personal ordinary income rate is 35%, down from 38.6%, while the highest marginal rate for corporations is unchanged at 39%. If a corporation has net profits before tax of between \$100,000 to \$350,000, it is better for the owners to do business as a limited liability company or S-corporation.

Eligibility of foreign stock dividends under the Act has been set out in new Treasury Department guidelines. If the foreign corporation stock is traded on an established U.S. securities market, taxpayers will generally be allowed to take advantage of the Act's lower dividend rate. Common stock of a foreign corporation is considered traded on an established market if the foreign corporation is listed on the NASDAQ or on one of nine (9) National Securities Exchanges registered under section six (6) of the Securities and Exchange Act of 1934, including but not limited to, the New York Stock Exchange, American Stock Exchange, Chicago Board Option Exchange and the International Stock Exchange.

HIPAA Privacy Regulations

In the news lately, the term "HIPAA" has been used quite a bit, especially in the area of health care. HIPAA is an act known as the "Health Insurance Portability and Accountability Act of 1996." There are various parts to HIPAA. The Privacy Rule became effective April 14, 2003, which most people are familiar with at this point. The Privacy Rule established minimum standards for protecting the privacy of personal, identifiable health information. The Privacy Rule confers certain rights in individuals, including rights to access and amend their health information. The Privacy Rule also provides individuals with the right to obtain a record of when their personal, identifiable health information has been shared with others and for what purpose.

The Privacy Rule also requires that written consent of a patient, before releasing disclosures of personal health information, be given. Patients must also receive detailed information regarding their privacy rights and how their medical information will be used.

HIPAA regulations established criminal penalties for intentional disclosure of private medical information of up to \$50,000.00 and one (1) year in prison. Disclosure with intent to sell private medical information is punishable with a fine of \$250,000.00 and ten (10) years in prison.

HIPAA regulations also provide for civil penalties of \$100.00 per person for unintentional disclosures of medical information and other violations of up to \$25,000.00 per person per year. Clearly, with these significant penalties, the healthcare industry is taking precautions to protect itself from disclosures of a patient's medical information.

It is very important for healthcare professionals and some employers who are responsible for self insured health plans, that they determine whether they have coverage under their current insurance policies with respect to their obligations, duties and responsibilities under HIPAA, as the penalties for noncompliance can be significant.

Wrongful Discharge

Ohio's Eighth District Court of Appeals recently held that an employee could maintain a lawsuit against his employer for wrongful discharge and retaliation where the evidence showed the employee was terminated for refusing to settle a workers' compensation case. The employee was told to settle the workers' compensation claim even though the employee told his employer that he wished to speak with an attorney first. The court found the employee's position more compelling than the employer who claimed the employee was fired for subordination for hanging up on his supervisor.