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THE REPORT

SPRING 2002

TAX LAW CHANGES EFFECTIVE FOR 2002

Many of the key changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001, as well as changes made by earlier tax laws, take effect in 2002. Further, a number of key tax figures, such as the standard deduction and personal exemption, also will rise due to built-in inflation adjustments. The following is a summary of the most important new-for-2002 tax changes.

(1) **Revised tax rate structure**. For 2002, the top four tax brackets are one-half percent lower than they were in 2001. They are now 27%, 30%, 35% and 38.6%. Additionally, a new 10% tax bracket is in place for 2002. Also, the range of the 15% and higher individual income tax brackets for 2002 has been adjusted for inflation so that more income will be taxed at lower rates. These changes will result in a lower tax liability for many individuals. Many wage earners will benefit immediately through reduced income tax withholding. For example, a married person with between $2,360 and $2,380 in biweekly wages, and claiming two withholding allowances, will have $33 less taken out of each paycheck this year than last (if the employer uses the "wage bracket" withholding method).

(2) **Overall reduction in personal credits**. The Alternative Minimum Tax ("AMT") usually means a higher tax bill only if the "tentative minimum tax" (the tax found by applying the AMT rules) exceeds the regular tax bill. For 2002, however, you could have an AMT-related tax problem even if you don't actually owe AMT. Unless Congress acts to fix the problem, non-refundable personal credits for 2002 (other than the adoption expense credit, the child tax credit, and the credit for low-income savers for elective deferrals and IRA contributions) will be allowed only to the extent a taxpayer's regular tax liability exceeds his or her "tentative minimum tax." As a result, this credit limitation may reduce an individual's non-refundable personal credits (and thus cause the individual to pay more tax) even if he or she has no AMT liability. This limitation did not apply last year. For 2001, non-refundable personal tax credits offset both the regular tax and the AMT.

(3) **Tax-free payouts from qualified tuition programs**. Qualified tuition programs (also called Section 529 Programs) generally allow taxpayers to buy tuition credits for their children or make contributions to an account set up to meet the qualified higher education expenses of their children. Distributions in 2002 from state-sponsored qualified tuition programs are tax-free if used for qualified higher education expenses (e.g., college tuition). The earnings part of such distributions made in 2001 was taxable to the child.

(4) **Coverdell education savings accounts.** Coverdell education savings accounts (formerly known as Education IRAs) are liberalized significantly. The annual contribution limit for such an account is $2,000, up from $500 for 2001. Additionally, these accounts may now be used for a wide array of education expenses, such as elementary and secondary public, private or religious school tuition and expenses, extended day programs, and computer purchases. Last year, the accounts could only be used for higher-education expenses.

(5) **New deduction for higher-education expenses**. For 2002, eligible taxpayers may claim a new deduction for higher education expenses. This deduction is available whether or not the taxpayer itemizes other deductions or claims the standard deduction. It's an up-to-$3,000 deduction for qualifying joint filers whose modified adjusted gross income ("AGI") doesn't exceed $130,000 and for qualifying singles or head of households whose modified AGI doesn't exceed $65,000.

(6) **New tax credit for low-income savers.** Beginning in 2002, eligible lower-income taxpayers may claim an annual tax credit for elective deferrals to qualified plans and IRAs (including Roth IRAs). The credit rate (50%, 20% or 10%), which is applied against contributions of up to $2,000 per taxpayer, depending on filing status and AGI.

(7) **Higher elective deferral limits**. For 2002, the 401(k) elective deferral limit is $11,000 (up from $10,500 for 2001), and those age 50 or older can make extra catch-up contributions of $1,000 (if the plan permits catch-up contributions to be made). These limits also apply generally to 403(b) annuities, salary reduction SEPs, and Section 457 (governmental) plans. Additionally, the maximum annual deferral limit in a SIMPLE plan is $7,000 for 2002 (up from $6,500 for 2001), and those age 50 or older can make extra catch-up contributions of

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$500 if the plan permits them.

(8) **Higher IRA/Roth IRA contribution limits**. For 2002, the maximum annual contribution to an IRA is $3,000 (from $2,000 for 2001), and a taxpayer age 50 or older can make an additional catch-up contribution of $500. The higher IRA contribution limits also apply to Roth IRAs.

(9) **Enhanced portability for tax-sheltered retirement funds**. Workers who move from job to job have more flexibility when it comes to investing their retirement plan funds. Tax-free rollovers are permitted between more types of plans. For example, rollovers are now allowed between 403(b) plans and other types of eligible retirements plans, and after-tax qualified plan contributions may be rolled over to an IRA. And more choices are available to surviving spouses who want to roll over a decedent's distributions. A surviving spouse may roll over a distribution from a qualified plan or IRA into an IRA or into a qualified plan, 403(b) annuity, or 457 plan in which the surviving spouse participates. Before 2002, a payout to the surviving spouse from the decedent's qualified plan or IRA could only be rolled over into another IRA.

(10) **Liberalized estate and gift tax rules**. A number of important rules have changed for individuals dying and gifts made in 2002:

- The annual per-donee gift-tax exclusion is $11,000, up from $10,000 for 2001; $22,000 for spouses who split gifts, up from $20,000 for 2001.
- The unified credit exemption equivalent amount for both estate and gift tax purposes (the aggregate amount that can be transferred free of estate or gift tax during life or at death) is $1 million; it was $675,000 for 2001.
- The top estate and gift tax rate, and the generation-skipping transfer ("GST") tax rate is 50% (it was 55% for 2001).
- The 5% surtax that phases out the benefit of graduated tax rates on estates over $10 million has been repealed.
- The state death tax credit will be reduced by 25% from the pre-2001 Act amount.

This Article only addresses the high points of the complex new rules for 2002. Please contact Bryan Hogue, Bob Barnett, Dave Onega, or your CPM attorney to discuss how these changes can affect you, your family, and your business.

COMMERCIAL CARRIER DECISION MAY IMPACT WAREHOUSING OPERATIONS

In a decision that will likely be debated in other states, the Alaska Supreme Court held recently that a logistics company which loaded materials onto a tractor-trailer had a duty to load the shipment in such a manner that it could be unloaded safely.

Lynden Logistics operated a warehouse facility owned by Arco. Lynden was responsible for managing the warehouse. When Arco contractors ordered construction material from the warehouse, Lynden employees staged and loaded the materials onto the contractor's truck. In this case, Lynden loaded a contractor's truck with steel materials, some of which were loose. At the destination, an employee of the contractor helping unload the loose materials was injured. The court held the logistics company could be held liable for failing to load the materials in a manner that allowed them to be unloaded safely.

The decision could impact anyone that provides loading services at the origin of a shipment. Those providing such services should review the language of their bills of lading and contract agreements to limit their liability where possible.

For assistance in reviewing existing agreements and developing new ones, please contact Boyd or Dave Ferris, or your CPM attorney.

EEOC FILINGS IN FISCAL 2001

Of the 80,800 charges of discrimination filed at the Equal Employment Opportunity Commission in 2001 (a slight increase over the number filed the prior year), race charges accounted for 35.8%, while 31.1% were claims of sex discrimination. Disability and age charges each account for approximately 20%. National-origin claims approached 10%, and retaliation claims accompanied one-fourth of all discrimination charged.

Claims were processed in about 6 months, about half the time that charges took 5 years ago. The amount of money collected in enforcement of charges continues to rise, reaching almost $250 million from administrative enforcement and another $40 million through suits brought by the EEOC on behalf of charging parties. The amount of litigation initiated by the EEOC increased and many cases were brought as class actions.

Of the 90,000-plus charges resolved by the EEOC last year, 22% had merit, meaning that the EEOC perceived discrimination probably occurred. While the reasons for dismissing claims vary from late-filed claims to claims which truly have no merit, charges inevitably carry tangible and intangible costs associated with defending them.

An initial complaint should be handled promptly and discussed with legal counsel to understand the potential pitfalls of the agency system, as well as to explore meaningful alternatives like mediation. If mediation is not viable, a well-developed and supported position statement will be the most significant document used to defend an employer's personnel decision. Every position statement is individualized and must be given the same attention as a legal brief filed before a court.

For information on avoiding employment-related litigation and defending charges of workplace discrimination, please contact Joëlle Khouzam, Kristine Hayes, or your CPM attorney.

ATTORNEY PROFILE

We are delighted to welcome Richard L. Bibart as Of Counsel to the Firm! Dick, a native of Newark, graduated from Harvard in 1964 and the University of Michigan's College of Law in 1966. Dick has the distinction of having obtained the highest score on his Ohio Bar exam.

In addition to experience in private practice, Dick also served as Vice President & General Counsel, then as Chief Operating Officer and finally as President and CEO of Red Roof Inns. His practice involves the representation of business clients in the formulation, negotiation and implementation of business strategies and transactions, with particular emphasis on tax planning and audit issues. He also has experience in representing clients in federal income tax audits at the Revenue Agent and Appellate Conference levels.

Dick also has a unique niche in auto racing: he represented Jim Trueman in his acquisition of Mid-Ohio Sports Car Course, which has become a world-class road course. He was also involved in the formation of TrueSports, Columbus's first and most successful Indy-Car race team, and in the hiring of Steve Horne and Bobby Rahal. He subsequently represented Rahal, who has since acquired his own race team.

Dick and his wife Lois have four children and four grandchildren. In addition to spending time with his grandchildren, Dick enjoys hunting, fishing, skiing, canoeing and horseback riding. He is a founding member and trustee of Wolf Creek Trout Club, a new private fly-fishing club in Coshocton County. Dick is also on the Board of "A Call to College," a scholarship grant program for graduates of Newark Senior High School. **Welcome aboard, Dick!**

NEW OSHA REQUIREMENTS

As you may know, the Occupational Safety and Health Administration has revamped its requirements regarding the annual posting of injury and illness reports. The new requirements include a longer posting period.

For assistance in assuring timely compliance with the new regulations, please contact Connie Hammerschmidt at HR Access, CPM's nonlegal subsidiary, for affordable expertise. Connie has been able to provide guidance on these new regulations to many of our clients over the last month. She can be reached at (614) 794-1785.

PEOPLE ON THE MOVE

Ritchey Hollenbaugh and ***Dave Karr*** have both been named partners at the Firm, effective January 1, 2002. Ritchey has been of counsel at CPM since 1999, while Dave began his career here as a law clerk following his second year of law school. Both are members of the Litigation Department. Congratulations!

Denis Murphy's Civil Justice, Inc., the project he coordinates with the University of Maryland, has been awarded the 2002 Louis M. Brown Award for Legal Access. CJI offers private practitioners networking opportunities to serve low- and moderate-income clients. The Award was presented at the American Bar Association's Midyear Meeting in Philadelphia. Congratulations, Denis!

Boyd Ferris will be a speaker at the 84th Annual Ohio Trucking Association Convention, being held in Las Vegas in March, where he will address property handling contracts and cargo claims handling. Boyd has been a nationally recognized expert on matters affecting the trucking industry for almost 30 years. He also serves as an at-large member of the Association's Board of Trustees, and is a member of several historical societies.

Leon Friedberg was a speaker at the day-long Ohio Bankruptcy Seminar sponsored by Lorman Business Institute, and also spoke at the Columbus Bar Association Real Estate Practice Institute, covering recent topics in bankruptcy and real estate. Leon will also be speaking to the Ohio Recorders' Association on March 15, regarding legislative changes affecting notaries public. For information on this upcoming program, please contact Leon at 628-0760.

Larry Sturtz was a speaker at the Faith Mission's recent 35th Anniversary celebration.

Joëlle Khouzam spoke on recent developments in the use of non-compete agreements at the Columbus Bar Association in February. She will also be a presenter at the Ohio Campground Owners Association's annual meeting, where she will discuss personnel considerations for the small business.

Scott Mergenthaler has been elected President of the Catholic Men's Luncheon Club. This organization meets monthly and makes recommendations to the Bishop of the Columbus Diocese regarding the Catholic Man of the Year Award.

Sherry Poston has joined the Firm as the Law Librarian. Sherry's experience in this field will keep CPM's resources in step with technological advances in computerized and other legal research.

The deadline to file a Complaint Against the Valuation of Real Property for the 2001 Tax Year is March 31. If you currently own a piece of real estate whose value is overstated on the County Auditor's books, you may want to consider filling a Complaint with the County Board of Revision by March 31, in order to have the taxable value reduced on the Auditor's records.

Please call Brian Newcomb or your CPM attorney to discuss this further.

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