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How to Achieve the Best Tax Result When Disposing of a Business Vehicle: You have two basic options – a sale or a trade-in. In the case of a sale, you will have either a taxable gain or a tax deductible loss. This will depend on the difference between the sale price and your adjusted basis at the time of sale. For the typical business vehicle, adjusted basis equals the initial purchase price minus depreciation. Due to the stingy depreciation rules that apply to the non-heavy SUVs, the adjusted basis will likely exceed the sale price and you will have deductible loss. We recommend selling the vehicle to an unrelated third party in this case and not trading it in on the next car so as to claim a tax deduction with respect to the business portion of the vehicle.

If there would be a gain on the sale (thanks to the fast depreciation rules that apply to heavy SUV's), then you do not want to sell the vehicle and lock in the taxable gain. You would trade it in on the new car through a tax-free "1031 exchange" named after Section 1031 of the tax code.

For example, if you sell a vehicle for $30,000 but it has a $10,000 adjusted basis (purchase price less depreciation), you would have a $20,000 taxable gain. If you trade it in plus pay $25,000 in cash or financing on a new $55,000 vehicle, you would pay no current tax. That $20,000 built-in gain is deferred, meaning you retain the use of the money for the time being. Your basis in the new $55,000 vehicle is $35,000 ($10,000 plus the new $25,000 payment) and there is still a $20,000 deferred gain.

Assume over the next 20 years, you have several more trade-ins, each time paying additional cash for the next vehicle. Some of the vehicles could be heavy SUVs for which you will claim basis-reduction depreciation deductions, and some will be traditional cars which offer little depreciation benefits. In the end, the adjusted basis of the final vehicle will equal all the cash and financing invested in all of the previous vehicles minus all of the depreciation taken on all of the cars. This may be as much as, say, $150,000. This final vehicle should be sold in order to claim a large tax-deductible loss. If the last vehicle is sold for $20,000, then there will be a $130,000 tax deductible business loss.

This example assumes 100% business driving. The personal miles driven will reduce the value of the business deduction. If, over the years, 80% of all miles driven were business and 20% were personal, then the $20,000 sale

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price would be reduced to $16,000 and the $150,000 adjusted basis would be reduced to $120,000. The deductible business loss drops to $104,000, and none of the remaining $26,000 loss is deductible, as this represents a non-deductible personal loss.

What If You Do Not Trade With Car Dealers? Dealers make money in the used car market by buying for too low and then selling for too high. For many, this is an acceptable cost in exchange for a convenient means of disposing of an old car. For others it isn't, especially when a valuable automobile is being traded in. Even if you don't engage in a dealer trade-in, you can still get trade-in tax treatment by doing a 1031 exchange through a third party intermediary. These people advertise as "real estate exchange intermediaries" but our understanding is that they routinely help with exchanges of other types of property, including vehicles.

To qualify for a tax-free exchange, you would sell the first vehicle with the built-in gain you want deferred. The intermediary will handle the paperwork that will preserve the 1031 exchange treatment. You will then buy the second vehicle with the intermediary substituting itself as a replacement buyer and again completing the required paperwork. There are two time limits that must be met. First, the new vehicle must be identified within 45 days of selling the first one, and there must be physical possession and ownership within 180 days. We'd expect the cost of the intermediary to be around $500 to $1,000, which could be much less than the added cost of the dealer trade-in.

From the No Good Deed Goes Unpunished Department: We have noticed a growing trend of state audits of practices that treat Medicaid patients, particularly in states with severe budgetary problems. The penalties being levied are huge and determined arbitrarily. It is possible to negotiate these down, but the negotiated amount will still be a high figure. You should be taking very detailed notes on your Medicaid (and all insurance) patients' charts in order to support what you are billing. If not, you are running a risk that these procedures will be reclassified with lower reimbursements and consequently higher penalties in the event of an insurance audit.

Limit the Damage of an Unclaimed Funds Audit by Filing the Unclaimed Funds Report Each Year: Certain situations give rise to unclaimed funds such as patient overpayments, uncashed checks, etc. This money rightfully belongs to other people, and you are required to return it. If you are unsuccessful in returning the money, then it must be paid to the state (with the unclaimed funds report) where it will be made available to the rightful owner. Needless to say, the states view this as "their" money because they know very little of it will ever be claimed. With state budgets in crisis, it's not surprising that we are hearing of more unclaimed funds audits.

The information being requested is staggering. They will want to see your quarterly bank reconciliations for each year under audit, credit balances and receivables. If they are requesting up to ten years worth of data (not unheard of) many of the bank and payroll records won't exist anymore. In speaking with CPAs who have handled these audits, we are told that the auditors can live with missing records. They will estimate what is owed based on their examination of recent information. In a dental practice, the vast majority of unclaimed funds will be overpaid fees. There should be no uncashed payroll checks, and uncashed checks to other businesses do not qualify as unclaimed funds.

If you do what you are supposed to do and write refund checks (and then turn over the remaining unclaimed funds to the state) you should be fine in the audit. In any event, they will likely assess you a big number and then give you time to reconcile it down to a small number, for example by showing that money was ultimately returned or that some of the credit balances are payments to other businesses. Our advice: make good faith efforts to return overpaid fees, file the annual unclaimed funds report, and turn the money over to the state. Filing the report, even with no money included, will at least allow your statute of limitations to run.

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If You Would Like To Make NON-Deductible Contributions to Traditional IRAs in Preparation for Converting Money in Them to Roth IRAs, Can You Make Contributions For BOTH You And Your Spouse - Even Though Your Spouse Does Not Have Any Earned Income? YES, if you file a joint tax return and have enough earned income to cover both contributions. Perhaps your spouse is a student or works at home (raising the children, running a household, volunteering ...) but is not paid in the sense of getting a W-2 at year-end. The general rule for IRAs is that we can contribute up to $5,500 ($6,500 for those at least age 50), but not more than our earned (W-2 type) income. That general rule allows you, with your full income, to contribute $5,500 or $6,500 to your IRA, but nothing to your spouse's IRA. There is an exception that solves the problem - the little known "spousal IRA contribution." The next part of this Newsletter covers various situations we see.

Married Couples and IRAs: Here are some basic rules and then the different fact patterns. **(A)** The general rule, as noted above, for both traditional and Roth IRAs is that we can contribute up to the lesser of (1) $5,500/$6,500 or (2) our earned income. **(B)** Regardless of retirement plan participation, a joint-filing couple's contributions can be to Roth IRAs if their adjusted gross income (AGI) is below a $178,000-$188,000 phase-out range for 2013. **(C)** If neither spouse participates in a retirement plan, their contributions to traditional IRAs can be deducted no matter how high their incomes. **(D)** If either participates in a retirement plan, the rules get complicated and their AGI level determines whether contributions to traditional IRAs can be deducted. **(E)** If they participate in a retirement plan and their AGI is too high to allow the traditional IRA contribution to be deductible, a Roth IRA contribution is still a possibility. But if their income is too high to make a Roth contribution, a third option is still available and they can make a non-deductible contribution to a traditional IRA. The ability to convert money from a traditional IRA to a Roth IRA (now in unlimited amounts) makes that third alternative much more palatable. Some fact patterns:

1. Both spouses earn income, and neither participates in a retirement plan - This is the easy situation. Each can make deductible or non-deductible contributions to a traditional IRA, regardless of how high their incomes. They can make Roth IRA contributions if their AGI is below $188,000.

2. One income earning spouse and one non-income earning spouse - As noted above, this couple can always make non-deductible contributions to traditional IRAs as long as they file a joint return and the income-earner has enough earned income to cover the two contributions. Whether the contributions can be deducted will depend on whether either participates in a retirement plan and, if so, their AGI level (see below).

3. An income earning spouse who participates in a retirement plan and a non-income earning spouse - The deductibility of the non-income earning spouse's traditional IRA contribution is phased out when the couple's AGI is between $178,000 and $188,000 and becomes a non-deductible contribution when their AGI is over $188,000. The deductibility of the income earning spouse's traditional IRA contribution is phased out if the couple's AGI is between $95,000 and $115,000 and becomes fully non-deductible if their income is above $115,000.

4. Both spouses have earned income and both participate in retirement plans - The $95,000-$115,000 AGI phase-out applies. For example, if the couple's AGI is $200,000, neither spouse can make a deductible IRA contribution (AGI exceeds $115,000) and neither spouse can make a non-deductible contribution to a Roth IRA (AGI exceeds the Roth $188,000 limit). That means their only alternative is to make a non-deductible contribution to a traditional IRA - which is not so bad in light of the ability to convert the money to a Roth IRA.

5. Both spouses earn income but only one participates in a retirement plan - The participating spouse cannot make a deductible contribution to a traditional IRA if the couple's AGI exceeds the $95,000-$115,000 phase-out range.

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The spouse who does not participate in a plan can make a fully deductible contribution unless the couple's AGI exceeds the different $178,000-$188,000 phase-out range. (No one said these rules were going to be easy or have to be consistent!)

With the Stock Market Hitting New Highs, This Could be a Good Time to Donate Appreciated Securities: A gift of cash will get you a tax deduction. However, a gift of appreciated stock gets you a tax deduction and eliminates the capital gains tax on the appreciation. You can sell the shares and use the proceeds for the donation. However, this is foolish because you will owe a federal capital gains tax of up to 23.8% on long-term gains and an even higher rate on short-term gains. You should instead donate the shares, claim a deduction based on the average of the high and low trading price on the date of the gift, and then purchase new shares in the same company. You will then own the same investment but with a stepped-up basis. The charity will sell the donated shares and not pay a tax since it is tax exempt.

The best shares to donate are the ones with the lowest purchase price. See if your broker can separate these out. If not, then your basis will be a blend of your various purchase prices. You will need to contact the charity and explain what you want to do. They will give you the routing information for their brokerage account at the same brokerage firm you are using for the gift. Then send a letter (copying the charity) to your broker with the instructions. Here is a general form we've used in the past that you might use as a model:

"Dear [your broker's name],

We are making a gift of [# of shares] shares of [Company] to the [Charity]. Please transfer from my account number [#] that many shares from the group purchased on [date of lowest priced purchase]. The [Charity's] account is at [common brokerage firm], Account number [#]. [Broker Name] is the [Charity's] broker. His phone number is [Broker's phone number] should you need to reach him.

When the transfer is complete, please advise me and [name of the charity's contact person]. Her phone and fax numbers are [charity phone] and [charity fax], and her email address is [charity email]. If you have any questions about the transfer, give her a call. Also let me know the high and low prices on the day the transfer takes place."

We Love Costco But Not Their Merchant Credit Card Processing Service: Costco's business relationship is with a processing company named Elavon. The rates they advertise in large print look attractive, but few, if any, of the transactions will qualify for that rate. This is a "tiered" pricing arrangement where a low rate of say 1.5% - 2.5% is used to induce new customers to sign up. The processor then uses its discretion to decide which transactions will qualify for that rate and which will be assigned to the mid-qualified and non-qualified tiers up in the 4%-5% range. Most transactions will be mid or non-qualified especially where the patient, client or customer is using some type of rewards credit card. This is the bait and switch technique that all processors using tiered plans employ.

In late 2010 we switched from the tiered pricing plan offered by our local bank. We paid the termination penalty and switched to a processor that uses a "cost plus" (aka "interchange plus") pricing plan. In short we are paying the interchange rate, which is the payment to Visa, MC, etc. for the use of their network, plus the processor's mark-up of 0.2%, 10 cents per transaction, and a few extra dollars in service charges. Is this 100% transparent? No. The monthly statement is still somewhat complicated, but it is far more transparent than a tiered plan where the processor charges whatever fee it wants. If you've not done so already, consider switching from a tiered plan to a cost plus plan. Even a 1% overall reduction in processing fees will save you thousands of dollars per year. We have worked with a company called Dental Card Services Alliance, but there are many such brokers that offer this service. Talk with several and compare their pricing plans.

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