

# Financial, Legal & Tax Advisory

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## About the author:

Dr. Bart A. Basi is an expert on closely-held companies, an attorney, a Certified Public Accountant and the Senior Advisor of the Center for Financial, Legal & Tax Planning, Inc. He is a member of the American Bar Association's Tax Committees on Closely-Held Businesses and Business Planning.



## Certain Tax Deductions Set to Expire Soon

### Introduction

Certain tax deductions are set to expire at year's end. Among them are the lower capital gains and dividend tax rates. The decisions you make in these final months of 2010 can have a major impact on your taxes next April. This article will identify some key strategies that should be implemented prior to the end of the year.

### First and Foremost

The favorable treatment that capital gains and dividends receive are about to change slightly. Dividend income will go back to ordinary income treatment, and capital gains will revert back to its 20% tax rate. While it is possible the favorable tax rates may be retained for some taxpayers, it is likely or even certain higher earning taxpayers will not enjoy this benefit for much longer. And, while this is true, for those who are not considered "higher income" year-to-year, those selling their businesses WILL likely be "higher income" in the single year they sell their business.

Let's take an example of a business person who earns \$65,000 per year. While this person is not high income on a tax year basis, the scenario changes when this person sells the business. In the year of a business sale, it is not uncommon for this person's capital gains and adjusted gross income to go into the high, six-figure range. It is in the year of the sale that capital gains will be calculated and assessed. The result is that even though this taxpayer earned low income on a year-to-year basis, this person will get slammed in the year of the business sale. It goes without saying that for those planning on taking capital gains or dividend income; plan accordingly for potentially big changes ahead.

### Deferring Income

The more taxable income you make in 2010, the more taxes you will pay. Therefore, it is logical to defer any ordinary income you can until next year. This is especially true if you or your business will be in a lower tax bracket this year as a result of your tax planning.

For business tax planning, you may want to send out your monthly billing later in the month of December so that any payments are credited and recognized as income in 2011, if you are on the cash method of reporting.

For individuals, if you are to receive a bonus, defer it until next year. (BE CAREFUL – if you have a retirement plan that is based on a percentage of your gross pay for the year, you don't want to reduce your retirement contribution because of your deferred bonus) Finally, you may decide to defer income the more traditional way, by participating in a deferred compensation plan, buying tax deferred treasury securities, or some specific certificates of deposit that allow for deferral of interest income.

### Accelerating Deductions

We all hate paying bills, but now is the best time to pay them. Even if you wait to pay them until Dec. 31, you can still deduct them. For business tax planning, buy supplies in December and stock up for the next few months. In addition, the IRS will allow you to deduct the expense if you have charged the item and not yet paid for it as long as you are on the accrual method of reporting. For example, use your company credit card to purchase supplies for January, deduct the expense now, and pay the bill in January.

Individuals, remember to recognize any capital losses that you may have before year end. You are allowed to offset capital gains each year with any losses you incurred, and if the loss isn't fully utilized this year, it can be carried forward to offset future gains to the extent of \$3,000 per year. Pay your investment expenses early, including any mortgage interest, real estate taxes, and any state and local taxes.

### Beefing up Section 179 Deductions

As part of the Small Business Act of 2010, businesses can now expense up to \$500,000 of equipment purchases under section 179 of the Internal Revenue Code. This deduction extends into 2011 as well. Investing now, allows you to utilize another 179 deduction next year as well.

### Bonus Depreciation

Bonus Depreciation is back this year and for 2011!!! The bonus amount of the depreciation is now 50% for qualifying property. The provisions of the new law are very similar to the version passed by Congress in 2008.

### Charitable Contributions

Businesses and individuals can make and deduct charitable contributions. Individuals have large deductible limits, generally around 50%. C Corporations are generally limited to 10% of profits. Make an early contribution to your favorite charity. This contribution can include personal property such as clothes and furniture, but remember to keep receipts for future proof of your generosity. Additionally, if the charitable deduction (of noncash items) for the year totals \$5000 or more (including C Corporations) a qualified appraisal must be made and attached to the tax return. Utilizing your credit card can be advantageous here as well, as more charities are accepting credit card donations.

### Look for Tax Credits

Tax credits are one of the most beneficial tax planning tools available to many individuals today. They are a dollar for dollar credit applied to your taxes due. Some examples for individuals include the Child Tax Credit, Hope Scholarship Credit, and Lifetime Learning Credit. Also, remember to use up any money set aside in a flexible spending account health plan (otherwise known as a "Cafeteria Plan"). The money left in these funds does not typically carry over to the following year.

### Conclusion

By utilizing these year-end tax strategies, you can reduce your tax liability for the year. Lowering taxable income by deferring income, accelerating deductions, giving to charity, and utilizing tax credits, results in lower tax liability. These methods work not only this year, but also year to year.

The Center routinely examines tax situations and engages in tax planning, business succession, and estate planning. If you are considering beginning estate planning, keep in mind that you have until December 31 to take advantage of 2010's gift exemption of \$13,000. If you wait until 2011, you will forfeit the opportunity to take advantage of the 2010 gift exemption amount! If you need assistance, contact the professionals at The Center.

11-10

### Dr. Basi's Travel Schedule:

December 10-15 – Longboat Key, FL

December 16-19 – New York, NY

January 19-21 – Las Vegas, NV

## Basi, Basi & Associates at The Center for Financial, Legal & Tax Planning, Inc.

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