

Tax changes may mean IRS-sized headaches for business

Shifting landscape creates more work for advisers helping clients navigate the struggling economy

By Martin C. Daks - NJBIZ

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The down economy may prompt businesses to sock away as much cash as possible, but that can backfire by exposing the company to federal tax penalties. That's just one issue facing business owners contending with a wave of changes in the federal tax code.

"I'm working on a company that the IRS says owes accumulated earnings tax," said **Ron Ruggeri**, tax principal with Cranford-based **MSPC Certified Public Accountants and Advisors P.C.**

To prevent business owners from salting away profits in the company, in order to avoid paying taxes on dividend distributions, the Internal Revenue Service can impose a penalty on corporations that accumulate more than \$250,000 in retained earnings.

"We're trying to make the case that the client qualifies for an exception because it was planning on making an acquisition," he said. "But a business usually has to produce plenty of documentation to back up that kind of claim."

That's not the only issue keeping advisers like Ruggeri busy. "A number of federal tax code changes are taking effect in 2010," he said. The biggest is the repeal of the federal estate tax, which bowed out Dec. 31 but may be re-enacted by Congress — and is likely to be retroactive to Jan. 1.

Other changes include:

- The tax deduction for business-related driving fell to 50 cents a mile for 2010, from 55 cents in 2009.
- In 2010, the Section 179 deduction — which lets a business depreciate certain equipment expenses in the year of purchase — is only \$134,000, down from \$250,000 in 2009.
- In 2009, businesses also could write off against income up to half the cost of certain assets they acquired, thanks to bonus depreciation. That goodie also expired at the end of 2009.

A possible change in capital gains tax rates will create planning challenges for some business owners, said Ellen Biben-Milbrod, a Manalapan-based CPA. "Under some circumstances, a person selling his or her company at a profit may be able to defer recognizing the gain on the transaction by using the installment method of reporting," she said.

That would allow the taxpayer to invest the money for a while before paying the taxes.

"But if you think tax rates will go up next year, reporting on the installment method might not be a good strategy," Biben-Milbrod said. "Other issues, like state taxes, may also have an impact on the decision."