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Tax & Business Alert

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GOOD EATS, TAX BREAKS: DEDUCTING EMPLOYEE MEAL COSTS

One thing about *human* resources — they need to eat. Just about every employer encounters situations in which it needs to provide meals to its employees. No matter how often you do so, be sure you're aware of the tax rules for deducting these costs.

CLAIM HALF OR ALL

Generally, a business may deduct only 50% of the cost of business meals for federal tax purposes. But food provided to employees may be fully deductible in circumstances such as when meals:

- Are provided as additional compensation (and thus included in employees' taxable income), or
- Qualify as tax-free de minimis fringe benefits.

You may also write off food, and exclude it from employees' income, if it's furnished for your convenience and on your premises.

FURNISH WITH A PURPOSE

Under IRS regulations, the "convenience of the employer test" is met only if meals are furnished for a "substantial noncompensatory business purpose." Although whether meals pass this test depends on the facts and circumstances of each case, the IRS has given examples of a number of acceptable circumstances.

For instance, food provided to keep employees available for emergency calls during the meal period generally qualifies for the full deduction. But such calls must actually occur or be reasonably expected to occur.

Another example is when the nature of the employer's business tends to shorten a meal to, say, 30 to 45 minutes. The furnishing of meals, however, isn't considered to be for a substantial noncompensatory business purpose if a meal period is shortened in order to allow employees to leave early.

A third instance is when employees cannot otherwise secure proper meals within a reasonable period. The regulations state that meals are fully deductible under this test if there aren't enough eateries near the workplace.

Important note: Under the current tax rules, if more than 50% of the employees fed on premises

CONSIDERING A CAFETERIA?

Years ago, only the largest companies had on-site cafeterias. But some midsize businesses are now establishing them, too. There are a number of potential advantages to doing so. Keeping employees on your premises can cut down on excessively long lunch breaks and foster collaboration among team members. A good cafeteria could also attract better job candidates.

From a tax perspective, an employer-operated eating facility is usually considered a de minimis fringe benefit. So the costs of providing meals there are generally 100% deductible as long as the cafeteria is located on or near your premises.

But there are a number of complex rules involved. For instance, the eating facility's revenue must normally equal or exceed its direct operating costs. We would be glad to work with you to ensure that the facility qualifies for tax-advantaged treatment when established and on an annual basis.

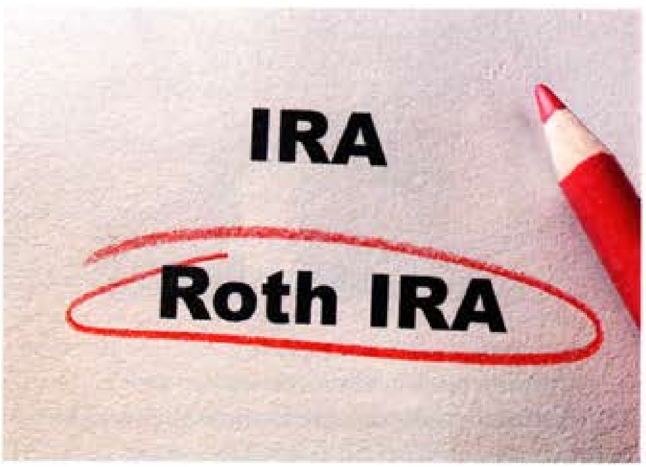
are furnished meals for the employer's convenience, then *all* meals furnished on premises are treated as furnished for the employer's convenience. Therefore, these meals are excludable from employees' income, regardless of whether every employee meets the convenience test.

ENJOY YOUR MEALS

From a tax perspective, providing meals to employees can be deceptively simple. On their face, the rules seem straightforward, but many exceptions and caveats apply. Stay apprised of the latest IRS guidance and double-check your company's meal deductions every year. ■

REACQUAINTING YOURSELF WITH THE ROTH IRA

If you've looked into retirement planning, you've probably heard about the Roth IRA. Maybe in the past you decided against one of these arrangements, or perhaps you just decided to sleep on it. Whatever the case may be, now's a good time to reacquaint yourself with the Roth IRA and its potential benefits, because you have until April 18, 2016, to make a *2015* Roth IRA contribution.



FREE WITHDRAWALS

With a Roth IRA, you give up the deductibility of contributions for the freedom to make tax-free qualified withdrawals. This differs from a traditional IRA, where contributions may be deductible and earnings grow on a tax-deferred basis, but withdrawals (less any prorated nondeductible contributions) are subject to ordinary income taxes — plus a 10% penalty if you're under age 59½ at the time of the distribution.

With a Roth IRA, you can withdraw your contributions tax-free and penalty-free anytime. Withdrawals of account earnings (considered made only after all your contributions are withdrawn) are tax-free if you make them after you've had the Roth IRA for five years and you're age 59½ or older. Earnings withdrawn before this time are subject to ordinary income taxes, as well as a 10% penalty (with certain exceptions) if withdrawn before you are age 59½.

On the plus side, you can leave funds in your Roth IRA as long as you want. This differs from the required minimum distributions starting after age 70½ for traditional IRAs.

LIMITED CONTRIBUTIONS

For 2016, the annual Roth IRA contribution limit is $5,500 ($6,500 for taxpayers age 50 or older), reduced by any contributions made to traditional IRAs. Your modified adjusted gross income (MAGI) may also affect your ability to contribute, however.

In 2016, the contribution limit phases out for married couples filing jointly with MAGIs between $184,000 and $194,000. The 2016 phaseout range for single and head-of-household filers is $117,000 to $132,000.

CONVERSION QUESTION

Regardless of MAGI, anyone may convert a traditional IRA into a Roth to turn future tax-*deferred* potential growth into tax-*free* potential growth. From an income tax perspective, whether a conversion makes sense depends on whether you're better off paying tax now or later.

When you do a Roth conversion, you have to pay taxes on the amount you convert. So if you expect your tax rate to be higher in retirement than it is now, converting to a Roth may be advantageous — provided you can afford to pay the tax using funds from outside an IRA. If you expect your tax rate to be lower in retirement, however, it may make more sense to leave your savings in a traditional IRA or employer-sponsored plan.

RETIREMENT RADAR

Roth IRAs have become a fundamental part of retirement planning. Even if you're not ready for one just yet, be sure to keep the idea of opening one on your radar. ■

WHY FLIP REAL ESTATE WHEN YOU CAN EXCHANGE IT?

There's no shortage of television shows addressing real estate these days. Many of these programs emphasize "flipping" properties when an adequate gain has been reached. But, if you're ready to move one of your investments, you might prefer to *exchange* it rather than flip it.

REVIEWING THE CONCEPT

Section 1031 of the Internal Revenue Code allows you to defer gains on real or personal property used in a business or held for investment if, instead of selling it, you exchange it solely for property of a "like kind." In fact, these arrangements are often referred to as "like-kind exchanges." Thus, the tax benefit of an exchange is that you defer tax and, thereby, have use of the tax savings until you sell the replacement property.

Personal property must be of the same asset or product class. But virtually any type of real estate will qualify as long as it's business or investment property. So if you wish to exchange your personal residence (including a vacation home), you'll have to first convert it into an investment property.

EXECUTING THE DEAL

Although an exchange may sound quick and easy, it's relatively rare for two investors to simply swap properties. You'll likely have to execute a "deferred" exchange, in which you engage a qualified intermediary (QI) for assistance.

When you sell your property (the relinquished property), the net proceeds go directly to the QI, who then uses them to buy replacement property. To qualify for tax-deferred exchange treatment, you generally must identify replacement property within 45 days after you transfer the relinquished property and complete the purchase within 180 days after the initial transfer.

An alternate approach is a "reverse" exchange. Here, an exchange accommodation titleholder (EAT) acquires title to the replacement property before you sell the relinquished property. You can defer capital gains by identifying one or more properties to exchange within 45 days after the EAT receives the replacement property and, typically, completing the transaction within 180 days.

PROCEEDING CAREFULLY

The rules for like-kind exchanges are complex, so these arrangements present many risks. If, say, you exchange the wrong kind of property or acquire cash or other non-like-kind property in a deal, you may still end up incurring a sizable tax hit. Be sure to call us when exploring a Sec. 1031 exchange and particularly before executing any documents. ■

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MARRIED FILERS, THE CHOICE IS YOURS

Some married couples assume they have to file their tax returns jointly. Others may know they have a choice but not want to rock the boat by filing separately. The truth is that there's no harm in at least considering your options every year.

Granted, married taxpayers who file jointly can take advantage of certain credits not available to separate filers. They're also more likely to be able to make deductible IRA contributions and less likely to be subject to the alternative minimum tax.

But there are circumstances under which filing separately may be a good idea. For example, filing separately can save tax when one spouse's income is much higher than the other's, and the spouse with lower income has miscellaneous itemized deductions exceeding 2% of his or her adjusted gross income (AGI) or medical expenses exceeding 10% of his or her AGI — but jointly the couple's expenses wouldn't exceed the applicable floor for their joint AGI.

However, in community property states, income and expenses generally must be split equally unless they're attributable to separate funds.

Many factors play into the joint vs. separate filing decision. If you're interested in learning more, please give us a call. ■