



Real Estate Tax Update

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Agenda



- Small Business Jobs Act of 2010
- Tax Rate Changes for 2011
- Estate Tax Update
- Uncertain Future
- Year End Planning Considerations
- Audit Activity Warning

Small Business Jobs Act of 2010

- Bill creates a \$30B small business lending fund and provides \$12B in tax breaks for small businesses
 - Bonus depreciation
 - Section 179 limits
 - Self-employed health insurance now a deduction against SE income
 - Carryback of unused general business credits for “small businesses”
 - Reduced recognition period for S Corps with built in gains
 - Start-up expenditures
 - Cell phones no longer listed property
 - Exclusion of gains on qualified small business stock

Small Business Jobs Act of 2010

- Revenue raisers
 - Enhanced penalties for failure to file information returns
 - Inclusion of rental of real property to definition of trade or business for purposes of 1099-MISC filing requirements
 - Retirement plan rollovers to Roth accounts
- State of Oregon
 - Disconnected from federal law related to bonus depreciation, higher Section 179 limits, and deferral of COD income provisions enacted in 2009
 - Scheduled to reconnect to definition of federal taxable income as of 1/1/2011, so **not** connected to any SBJA provisions for 2010

Tax Rate Changes for 2011

CURRENT TAX BRACKET	2011 TAX BRACKET?	MARRIED FILING JOINT	SINGLE
10%**/15%	15%	\$0 - \$70,040	\$0 - \$35,020
25%	28%	\$70,040 - \$141,419	\$35,020 - \$84,872
28%	31%	\$141,419 - \$215,528	\$84,872 - \$177,006
33%	36%	\$215,528 - \$384,860	\$177,006 - \$384,860
35%	39.6%	OVER \$384,860	OVER \$384,860

Based on 2010 tax brackets plus 3% inflation, 2011 rates

** 10% for \$0 - \$16,750 - MFJ
 \$0 - \$8,375 - Single



Tax Rate Changes for 2011

- Capital gains increasing
 - Currently 0%/10% for lower tax brackets (15% for higher brackets)
 - Increasing to 15% or 20% depending on tax bracket
 - Qualified dividends taxed at ordinary rates versus capital gains rates
 - Real property depreciation recapture still 25% rate (but watch prior bonus depreciation and Section 179 expense claimed)
- Oregon same as 2010
 - Maximum of 11%

Estate Tax Update

- 2010

- No federal tax
- Oregon inheritance tax applies to estates > \$1 million
- Carryover basis rules apply
- Federal gift tax rate is 35%

- 2011

- Federal tax scheduled to return to 2000 levels
 - Maximum tax rate of 55%
 - Lifetime personal exemption of \$1 million
- Basis adjustment to FMV included in estate (step up or down)
- Federal gift tax rate increases to 45%

- Planning tips

- Annual gifting up to \$13,000 a year (\$26,000 if married) per recipient
- Use your \$1,000,000 lifetime gifting exemption
- Consider taxable gifts before 12/31/2010 to avoid GST



Uncertain Future



- Federal income tax legislation
 - Typical “extender” bill
 - Extension of Bush tax cuts
 - Carried interest taxation
- Oregon income tax legislation
 - Connection to 2010 federal legislation
 - Defer connection to federal taxable income definition
- Federal estate tax legislation
 - Lifetime personal exemption ranging between \$3.5 and \$5 million
 - Portability of unused exemption amount to surviving spouse
 - Maximum tax rates somewhere between 35% and 45%
 - Continue basis adjustment rules
 - Eliminate discounting

Year End Planning Considerations

- Accelerate taxable income to 2010
- Defer deductions to 2011
- Review federal and Oregon income tax withholdings
- Make energy savings improvements to your main home
- Prepay state income taxes if not in AMT
- Take qualified dividend distributions from C corporation earnings and profits
- Consider Roth conversion

Audit Activity Warning

- Higher emphasis on enforcement and collections
- Pacific NW added many new IRS auditors
- Hot audit topics currently include:
 - Passive activity losses
 - Materially participating real estate professionals, including contemporaneous log of time spent by activity
 - 1099 information reporting
 - Reasonable compensation from S corporations
- Not just the IRS, how about City/County
 - Aggressive enforcement (calls, notices, etc.)
 - Exemptions from filing (watch TICs)
 - COD in partnership returns **not** excluded

Questions



- Contact info

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<http://www.perkinsaccounting.com/our-story/perkins-news-bulletin/2010-small-business-jobs-act.html>

