September '09 Issue

THE Wisconsin Accountant

Wisconsin Association of Accountants ■ 1-800-237-4080 - 715-425-0482 - www.wiassociationofaccountants.com

2009 Seminars

September 21-22
WAA Annual Convention
La Crosse
Radisson Hotel
(608) 784-6680

October 9
Gear Up - Helping Clients Through Difficult Times
Wisconsin Dells
Kalahari Resort
(877) 253-5466

October 19-20
Federal Tax Update
Wausau
Stoney Creek Inn
(715) 355-6858

November 2-3
Gear Up 1040
Waukesha
Country Springs Hotel
(800) 247-6640

November 16
Gear Up Business Entities
Madison
Sheraton Hotel
(608) 251-2300

November 30 - December 1
Gear Up 1040
Hudson House Inn
(715) 386-2394

December 8-9
Bob Jennings Tax Update

Guidance on Ponzi Schemes and Theft Losses

Submitted by Wisconsin Department of Revenue

In March of 2009, the Internal Revenue Service issued Rev. Rul. 2009-9 relating to the treatment of losses resulting from Ponzi schemes (for example, the Bernard Madoff fraud case).

Under this ruling,

■ Ponzi scheme losses are considered theft losses from a transaction entered into for profit. The losses are not capital losses.

■ The amount of a theft loss is the amount invested in the arrangement, less amounts withdrawn, if any, reduced by reimbursements or recoveries, and reduced by claims as to which there is a reasonable prospect of recovery. Where an amount is reported to the investor as income prior to discovery of the arrangement and the investor includes that amount in gross income and reinvests this amount in the arrangement, the amount of the theft loss is increased by the reinvested amount.

■ The theft loss is claimed as a miscellaneous itemized deduction on federal Schedule A.
The Internal Revenue Service also issued Rev. Proc. 2009-20. This revenue procedure provided a safe harbor deduction for losses resulting from Ponzi Schemes. This revenue procedure allowed a percentage of the theft loss to be claimed in the year of discovery as a miscellaneous itemized deduction. However, a taxpayer that chooses not to apply the safe harbor treatment to a claimed theft loss and that files or amends federal income tax returns for open years prior to discovery to exclude amounts reported as income from the investment arrangement must show that the amounts were not income that was actually or constructively received by the taxpayer. This will not prevent the taxpayer from including the reported income from closed years in the basis for determining the allowable loss.

Wisconsin Treatment

Individual investors - Wisconsin does not allow a subtraction for itemized deductions. Instead, certain federal itemized deductions are used in the computation of the itemized deduction credit. Wisconsin law does not allow federal miscellaneous deductions for purposes of the itemized deduction credit. Individuals who invested in a Ponzi scheme may not claim a theft loss deduction or any credit for losses reported on federal Schedule A.

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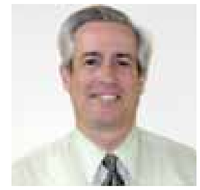
Executive Corner . . .



Byron Dopkins, Executive Director

By the time you read this our annual convention held this year in LaCrosse at the beautiful Radisson Hotel will be over. Everyone will be saying that the seminars were great! An important facet of the annual convention is to do the business of the association with a couple of board meetings and the annual meeting. We discuss the past year performance and lay the ground work for the next year. We have election of officers and that brings me to my point. We are always looking for interested members to serve on the board. Generally, it is a three year term and we have our meetings either on Friday afternoons or at one of our seminars. The schedule is on our website. I would be happy to explain the expense reimbursement policy and board responsibilities with anyone interested. Call me at the WAA office (800)237-4080.

Our fall seminar flyer is out with all the details on each seminar. We added a new seminar at a large discount to members from Gear Up, “Helping Clients Through Difficult Times.” Seating for this seminar is limited so register early!

Byron L Dopkins, EA, ABA
WAA Executive Director

From the President . . .

Jim Molenda, President

This is my last message as president.... I believe our association “held it’s own” this past year in light of our economy. This did not happen automatically, it took hard work and effort from all our board members. I sincerely thank them.

The work does not stop now. We continue with a few new people on the board and for the first time we will be having an extended board meeting on Thursday, October 8th. Starting at 10:30, we will go 8 hours or more setting our goals and priorities for the future. Any ideas or comments from our members are welcomed.

I look forward to new and younger ideas that I know our new president, Bill Suttner will bring with all his enthusiasm.

I thank everyone again. This past year has been an exciting and fulfilling experience as your president.

Jim Molenda, EA
WAA President

Quote of the month

“To love what you do
And feel that it matters....
How could anything be more fun?”

Guidance on Ponzi Schemes and Theft Losses

continued from page 1

Refunds will be allowed on amended returns filed for years open to adjustment to exclude "phantom income" previously reported as income from the investment arrangement provided the taxpayer can show that the amounts were not income that was actually or constructively received. Taxpayers should submit copies of statements showing reinvestment of the income.

Refunds requested on an amended return for years closed to adjustment will be denied.

Pass Through Entities - A partnership or S corporation may directly incur a theft loss from a Ponzi scheme. The theft loss is treated as an ordinary loss and flows through to the partners or shareholders and remains an ordinary loss (not a capital loss). The partnership or S corporation must inform the partner or shareholder on federal Schedule K-1 whether the loss is from trade or business property or income producing property.

If the loss is from trade or business property, the individual may deduct the loss in computing federal adjusted gross income on the individual's federal income tax return (line 14 of Form 1040). This deduction is also allowed for Wisconsin income tax purposes.

If the loss is from income producing property, for federal tax purposes the individual may only deduct the loss as a miscellaneous itemized deduction on federal Schedule A. No deduction or credit is allowed for Wisconsin for the amount that is claimed as a federal miscellaneous itemized deduction.

New Schedule L Required for Claiming Certain Additional Deductions for 2009

Submitted by Monthly Tax Update

If a taxpayer wants to claim special add-ons to the standard deduction to a 2009 tax return, the IRS hasnow stated that it will need additional details. Therefore, for filers who supplement their otherwise allowable standard deduction amount with real estate taxes, sales tax on vehicles or disaster losses must file new Schedule L and list these respective amounts. For 2009, joint filers can add up to $1,000 (unmarried taxpayers - $500) of property taxes paid to their standard deduction. And, for those taxpayers who purchase a vehicle after Feb. 16, 2009 and before 2010, sales tax paid on the first $49,500 of cost can beadded to their standard deductions. Finally, non-itemizers who live in federal disaster areas can boost their standard deductions by any casualty losses. (Misc.; Schedule L)

Service to Focus on Unreported Real EstateTransfers - Failure to File Form 709

Submitted by Monthly Tax Update

The IRS's Estate and Gift Tax Program recently announced that it is now working with state and county authorities in several states to determine if the realestate transfers reported to them are in fact unreported gifts that should have been listed on Form 709. The Service stated that "Although a tax may not be due, a gift tax return may be required for real estate transfers above the annual exclusion amount," (i.e., $13,000, or$26,000, with marital gift splitting). They also raised the possibility that penalties would be due on all delinquent taxable gift returns filed. (Code §2501; Form 709)

WAA Benefits

- Seminars and Educational Forums
- Accreditation
- Local Chapter Involvement
- Government Agency Liaison
- Monitor Legislation
- Insurance Programs
- Accountants Protection Plan

WAA Objectives

- To raise professional standards and improve the practice of accountancy.
- To strive for excellence in the profession.
- To encourage accountants in a continuing program of professional development.
- To foster increased recognition for the professional in the public, private and educational sectors of our state.
- To initiate legislative action and provide government liaison between the accounting profession and government leaders.
- To provide meetings and fellowship for accountants.
- To promote the highest standard of ethical conduct among its member.

Southwest Chapter Meeting Schedule

November 10, 2009
January 12, 2010
May 11, 2010
August 10, 2010

EO Exemption Application User Fees to Increase in 2010

Submitted by IRS e-News for Tax Professionals

User fees will increase for all applications for exemption (Forms 1023, 1024, and 1028) postmarked after January 3, 2010:

- $400 for organizations whose gross receipts are $10,000 or less annually over a 4-year period
- $850 for organizations whose gross receipts exceed $10,000 annually over a 4-year period
- $3,000 for group exemption letters.

A complete schedule of all user fees will be published in the annual procedure released in January 2010.

Cyber Assistant, a Web-based software program designed to help 501(c)(3) applicants prepare a complete and accurate Form 1023 application, will become available during 2010. Once the IRS announces the availability of Cyber Assistant, the user fees will change again:

- $200 for organizations using Cyber Assistant (regardless of size) to prepare their Form 1023
- $850 for all other organizations not using Cyber Assistant (regardless of size) to prepare their Form 1023.

IRS will announce when Cyber Assistant is available and the effective date of the user fee change. Subscribe to the EO Update to automatically receive an alert that Cyber Assistant is available.

NOTICE OF PREPAYMENT REQUIRED FOR COPIES OF PREVIOUSLY FILED TAX DOCUMENTS

Effective: September 15, 2009

This notice is to inform you that when requesting copies of previously filed tax documents, payment of appropriate fees charged for copies of returns and documents must accompany the request. The department will no longer invoice for these services. Requests will not be filled until full payment has been received.

- Certified copies of returns are $6.00 for each year or period requested.
- Regular copies of returns are $5.00 for each year or period requested.
- Copies of correspondence, notices of refunds, assessments, work papers, etc., are $.20 per one side of a page.

Additional information on how to obtain copies of previously filed tax returns and documents can be obtained by visiting the department's website at http://www.revenue.wi.gov/faqs/ise/request.html or by contacting the Specialized Services Unit of the Wisconsin Department of Revenue at 608-266-2890.

2009 Taxation of Unemployment Compensation

Submitted by Wisconsin Department of Revenue

For federal income tax purposes, Public Law 111-5, enacted February 17, 2009, provided that for 2009, the first $2,400 of unemployment compensation is excluded from income. This provision of federal law was not adopted for Wisconsin.

For Wisconsin income tax purposes, the amount of taxable unemployment compensation is the lesser of (1) the total unemployment compensation received in 2009, or (2) one-half of the amount by which federal adjusted gross income less certain adjustments exceeds $18,000 ($12,000 if single or married and did not live with your spouse at any time during the year, or -0- if married and lived with your spouse at any time during the year).

A worksheet for determining the amount of unemployment compensation taxable to Wisconsin is provided in the instructions for the income tax forms. When determining taxable unemployment compensation, the taxpayer must enter his or her federal adjusted gross income on the worksheet.

Because of the definition of the Internal Revenue Code provided under Wisconsin law, the amount to enter on the worksheet as federal adjusted gross income cannot be taken directly from the taxpayer's federal income tax return. For example, the Wisconsin definition of the Internal Revenue Code does not include the exclusion for the first $2,400 of unemployment compensation, the deduction for educator expenses, or the deduction for tuition and fees.

Taxpayer's who file Wisconsin Form 1 or Form 1NPR are required to complete Wisconsin Schedule I, Adjustments to Convert 2009 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin. This schedule will recompute federal adjusted gross income to account for the differences between federal and Wisconsin law. This recomputed federal adjusted gross income is the amount to enter on the worksheet as federal adjusted gross income.

Taxpayers who file Wisconsin Form 1A do not have to complete Schedule I. However, when completing the unemployment compensation worksheet, they still must recompute federal adjusted gross income to account for the differences in federal and Wisconsin law. Therefore, the amount to enter on the worksheet is the federal adjusted gross income as shown on the federal return plus the amount of unemployment compensation excluded from federal income, the amount of any federal educator expense deduction, and the amount of any federal tuition and fees deduction.

NSA Happenings from the District V Governor . . .

My first year as the new District V Governor will be exciting. I am the first District V Governor elected from the State of Michigan . My first assignment as Governor will be to serve on the Administrative Policies committee. I served on the National Regulation and Oversight Committee (NROC) this past year with WAA member Jim Weickgenant.

Thank you to NSA Wisconsin State Director Sam Micale and all of the WAA members who served on committees this past year with NSA. Thank you to the WAA 2008-2009 elected officers and board members who have served. I congratulate those WAA elected officers and board members who have stepped up to serve WAA for 2009-2010.

In the past six years I have met many of the WAA members. I look forward to meeting and speaking to all of you in La Crosse . Enjoy the 2009 54th WAA Convention in La Crosse . If the National Society of Accountants can assist you, let me know.

Durette D. Hauser
District V Governor

2009 Treatment of IRA Distributions Donated to Charity

Submitted by Wisconsin Department of Revenue

The Emergency Economic Stabilization Act of 2008 (federal Public Law 110-343) extended for 2008 and 2009 the federal provision that provides that individuals aged 70 1/2 or older can distribute up to $100,000 of their IRA balance to charitable organizations without recognizing income and without taking a charitable deduction.

This provision of P.L. 110-343 has not been adopted for Wisconsin tax purposes. When filing their 2009 Wisconsin income tax returns, taxpayers who donated an IRA distribution to charity must complete 2009 Wisconsin Schedule I to include the IRA distribution in Wisconsin income. To calculate the Wisconsin itemized deduction credit, use the amount of charitable deduction that would have been allowed on federal Schedule A without considering P.L. 110-343.

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