



SKILLED • RELIABLE • TRUSTED

HOLTZ RUBENSTEIN

adviser



FEBRUARY, 2001

Proposed Regulations Simplify Retirement Plan Minimum Distribution Rules

In January the Internal Revenue Service issued proposed regulations that provide guidance regarding the rules on minimum distributions from qualified retirement plans, including traditional (**not** Roth) Individual Retirement Accounts ("IRAs"). Major simplifications have been made to the rules, including the calculation of the required minimum distribution during the individual's lifetime and the determination of a designated beneficiary for distributions after death.

Generally, you must take a required minimum distribution for the year in which you turn age 70½. The proposed regulations provide a uniform table that

all individuals can use to determine the minimum distribution required during their lifetime. The amount of the minimum required distributions would be lower for most individuals, allowing more of an individual's retirement account money to grow, tax-deferred, in future years.

Additionally, if the designated beneficiary is a spouse more than 10 years younger than the account owner, the regulations permit you to base distributions on a longer joint life expectancy and stretch the distributions over more years.

Under the old regulations, IRA owners were required to designate a beneficiary by age 70½. But under the proposed regulations the designated beneficiary would be determined as of the end of the year following the year of the account owner's death. This permits an individual to change beneficiaries without affecting his or her minimum required distribution and permits post-death changes in beneficiaries, via disclaimers.

It should be noted that all banks, brokerage houses, mutual funds and other IRA trustees will have to report to the IRS and to the individual the minimum required distribution amounts for each calendar year. If you do not report the proper amount as taxable income on your tax return you will be subject to a 50% penalty.

Although the proposed regulations would be effective for purposes of determining minimum distributions required for calendar years starting with 2002, you may use either the new or the old regulations to

Notable and Quotable

Senior tax partner **Alan E. Weiner** has been chosen to be included in the 55th edition of *Marquis Who's Who in America*[®]. Marquis has chronicled the lives of the most accomplished individuals and innovators from every significant field of endeavor and remains an essential biographical source for thousands of researchers, journalists, librarians and others around the world.

According to Alan, "It certainly is an honor to be included among the most notable people in the country. I could not have accomplished this feat without the help of the partners and staff of Holtz Rubenstein."

Alan has been included in *Who's Who in American Laws* since 1977 and *Who's Who in the East* since 1985.

In addition, Alan has been re-appointed as an editorial adviser of *The Tax Adviser*, the magazine of the American Institute of Certified Public Accountants (AICPA). For the fifth straight year, his responsibilities will include reviewing and editing articles submitted for publication and advising the magazine on future editorial content of interest to the tax profession.

(continued on page 4)

determine distributions for 2001. For more information on these new rules, please call tax manager Sid Leibowitz at 631-752-7400, extension 265.

This Month

- ⇒ Proposed Regulations Simplify Retirement Plan Minimum Distribution Rules
- ⇒ Best of the Best
- ⇒ Benefits Provided to Taxpayers With Foreign Activities
- ⇒ CyberNotes – timeanddate.com
- ⇒ New Capital Gains Tax Rate
- ⇒ The Adviser Corner: Reinforcing Your Company for the 21st Century
- ⇒ Do Not Call!
- ⇒ New York State Adopts Credit Card Tax Payment Program

HOLTZ RUBENSTEIN & CO., LLP

Certified Public Accountants • Business Advisers
Long Island: 125 Baylis Road, Melville, NY 11747
631/752-7400 • Fax: 631/752-1742
New York City: 1120 Avenue of the Americas
New York, NY 10036 • 212/398-7600

Visit our website: www.hrcpa.com

Best of the Best

The people of Holtz Rubenstein & Co., LLP are honored that the firm has been named by Bowman's Accounting Report among the 25 best accounting firms in America, for the fifth year in a row. Please read the letter by HR managing partner Frank Candia, enclosed with this newsletter.

Benefits Provided to Taxpayers With Foreign Activities

In response to pressure from the World Trade Organization, Congress has repealed the entire foreign sales corporation tax regime. In its place is a new system that provides an income tax benefit that permanently excludes part of a new classification of income, known as “foreign extraterritorial income,” from taxable income. This new regime provides most U.S. exporters with benefits that should at least equal those previously available. It also provides new opportunities by making the benefit available to a broader base of taxpayers.

The extraterritorial income exclusion applies equally to all U.S. taxpayers, including C corporations, S corporations, partnerships and individuals that sell and have foreign activity. It no longer requires a taxpayer to set up special corporations, such as a foreign sales corporation (“FSC”), in low or no tax jurisdictions in order to operate its foreign business.

In addition, separate U.S. tax returns will not be required. Taxpayers will be able

to calculate the exclusion directly on their U.S. income tax return.

To qualify for this new benefit, certain foreign economic processes must be part of the sales activity. This can be accomplished by fulfilling two basic requirements *outside* the U.S. – the taxpayer must participate in the sales process and it also must have a minimum percentage of direct foreign costs. Participation in the sales process includes solicitation, negotiation or taking actions to complete a sales contract. The direct foreign costs test can be met if foreign costs account for at least 50% of the total costs from the following five groups:

1. Advertising and sales promotion;
2. Processing orders and arranging for delivery;
3. Transportation of property outside the U.S.;
4. Invoicing or receipt of payment; and
5. Assumption of credit risk.

(continued on page 4)

New Capital Gains Tax Rate

As a result of legislation in 1997, it may be possible for you to reduce your future long-term capital gains tax rate to 18%. The legislation is complex considering that the long-term capital gains rate is currently 20% and the potential savings are only 2%.

The basic requirements are:

- a. As a general rule, you must have purchased the asset on or after January 1, 2001 and hold it for at least five years and one day, meaning that the earliest you can take advantage of the lower rate will be in 2006.
- b. For almost any asset that you purchased prior to January 1, 2001 you may make a special election with the 2001 tax return that you will file in 2002, to report the built-in appreciation as income on your 2001 tax return. Built-in losses at January 1, 2001 will not result in a deductible loss. The sole purpose of making the election is to become eligible for the 18% capital gains rate in, and after, 2006, for assets purchased prior to 2001.
- c. A separate decision may be made for each asset owned by you.
- d. In addition to individuals, flow-through entities (S corporations, partnerships, limited liability companies, trusts and estates) also are eligible to make the election. Since some flow-through entities file tax returns on a fiscal year (i.e., a 12 month period with a month ending other than December 31st) basis, those entities will need to make the “election decision” sooner. Their tax returns for the year ending in 2001 will be due not later than the 15th day of the 10th month (9th month in the case of S corporations) after the close of the fiscal 2001 tax year.
- e. Since the basis of each asset is a critical factor in making the election decision, it is *imperative* that you gather the necessary records *now* and be in touch with us during 2001 if you have an interest in determining the current and future tax consequences of the election.
- f. Except for publicly traded securities, property appraisals as of January 1, 2001 may be required.
- g. The effort and cost needed to determine whether the election is worthwhile may be greater than the potential tax savings.

CyberNotes – timeanddate.com

Modern technology has made the world a much smaller place. Many of us find ourselves in contact with people across the globe on a daily basis. It is easy to forget that the entire world does not share the same time zone. For people making frequent calls to different time zones, there is a simple way to determine the time of the city you are calling.

At **timeanddate.com** you can browse a standard alphabetical listing of the current time in 130 of the world’s most popular cities. To make future use even easier, you can create a personal listing that contains your favorite cities. In addition to the current time, each city listing contains information regarding daylight savings time and the time of the sunrise and sunset in that city.

Timeanddate.com can be enormously helpful if you want to plan a conference call with participants in various international cities. The *meeting planner* function will help you organize the most convenient time for all participants, in up to six different cities.

In addition to the time-related functions, **timeanddate.com** has numerous calendar features. Included among those features is the ability to create and customize a calendar for almost any year, past or future. Once created, you can print a monthly or annual calendar, in various different formats. **Timeanddate.com** also enables you to calculate the amount of time between two particular dates.

With all its useful features, **timeanddate.com** certainly will be helpful when you need to plan something for a particular date *or* time.

**Reinforcing Your Company
for the 21st Century****By Leo D'Sa**

Welcome to the new millennium, the 21st Century. It is a time of advanced technology, with an emphasis on clarity, accuracy and the availability of vast amounts of information at warp speed. For some it is a period of uncertainty and trepidation. Others consider this to be a time to reap the rewards of effective websites, turning many into millionaires. Recent published articles have discussed the effects of a possible recession of the economy. Many are speculating that this "slump" will be different from the previous ones. How can you prepare?

The saying is "a picture is worth a thousand words." The most effective way to take a picture of the financial operation of your company is through actual numbers. Having an understanding of the various revenue and expense initiators is a good way of viewing the financial position of a company.

Profitability

A comprehensive understanding of your fixed and variable expenses is imperative. Companies should evaluate their gross profit and unit factor, rather than net income or revenue growth.

A reliable indicator of the degree of profitability in your company lies in the gross profit that, by and large, should also be comparable to other companies in your industry. Gross profit is calculated by taking your net revenue and subtracting the direct cost associated with that revenue.

Unit factor – or cost per unit – is yet another effective tool that many companies fail to use in determining their breakeven point, when revenues cover cost. Knowledge of the various revenue items and the profits each product or service generates are good indicators of where a company's resources should be allocated, to maximize profitability.

A conceptual understanding of fixed and variable costs is essential in managing your company when cutbacks are needed

and also in determining the breakeven point. Fixed costs are those that do not vary in direct proportion to the firm's output; e.g. rent, depreciation, etc. Conversely, variable costs are those that vary directly with output; e.g. labor, raw material, etc.

In essence, knowledge of fixed and variable costs determine how effectively the factors of production can be put to use so as to obtain maximum profits.

Companies should also be sensitive to their tax liabilities. The key is to minimize liability wherever possible and look for tax credits.

Labor

Labor is the effort (both physical and mental) made by human beings in production. It is the human element that is important. As such, the labor force always should be considered a variable cost. Since labor cost is among the most expensive incurred, each employee hired by your company should possess qualities and characteristics that will enhance the company's performance.

Productive employees expect to be remunerated fairly for their efforts and dedication to the company. Though higher employee wages affect profitability, ultimately a contented employee will produce more than an unhappy one. However, always guard against employees with a lack of initiative, technical skills, etc., who may adversely be affecting productivity. It is of paramount importance that employees be evaluated and re-evaluated systematically.

Controls

Although SEC and FASB don't require internal controls and/or corporate compliance, these are tools that most companies use to safeguard their assets from their own employees. But beware – companies spend lots of money establishing internal controls and corporate compliance but very little time and money to make sure they are followed.

Make a point to test controls every six months and make the necessary changes to the new environment. What is feasible today might not be viable tomorrow with all the new technological changes.

Do Not Call!

Has this happened to you? You and your family are sitting down to dinner when the phone rings with a telemarketer's call. How can you get off the phone? Are you rude and just hang up? Or do you wait until the telemarketer finally takes a breath before telling him or her you're not interested? You will no longer have to wrestle with these choices, thanks to the "Do Not Call Telemarketing Registry."

Starting on April 1st, you can sign up on this registry to take your name off telemarketers' lists. Telemarketers then have 30 days to remove your name, or else face a \$2,000 fine.

The new law takes effect on April 1st, but already 440,000 people have pre-registered. Call 1-800-NYS-1220 or fill in a form at www.consumer.state.ny.us.

Even if you choose not to register, the state is passing some new laws affecting telemarketing. It will soon be illegal to get telemarketing calls before 8:00 a.m. and after 9:00 p.m. Telemarketers are also prohibited from calls that are intimidating or misleading.

**Technology**

Technological advances have rapidly been developing over the past four decades. Unfortunately, an alarming number of employees still are incapable of performing certain new tasks, lack initiative or are computer illiterate and thus unable to work effectively and efficiently. Companies may be unwilling to cover the extra costs to train these employees, but in the long run, it may be a valuable expense that will increase productivity.

There are various ways of "cushioning" the blow of an economic slump. Several economic factors come into play and the ability to manipulate these factors effectively may be the difference between the survival of your company or its' downfall. If you would like more information, please contact HR manager Leo D'Sa at 631-752-7400, extension 286, or LDsa@hrcpa.com.



Credit Card Tax Payments: New York State Adopts , IRS Expands

Beginning March 1, 2001, individual taxpayers will be able to use their American Express, Discover/Novus, or MasterCard to make payments to New York State for balances due on returns, estimated tax payments, or extension requests. You can pay your taxes by credit card using a touch-tone phone or through the Internet.


This comes after the IRS expanded its credit card program in January, allowing taxpayers to make credit card payments, using the Internet. New York State is using the same credit card service providers that have agreements with the IRS to process income tax payments.

The two service providers are : Official Payments Corp. (800-2PAYTAX, www.officialpayments.com) and PhoneCharge, Inc. (IRS tax payments- www.About1888AllTaxx.com, New York State tax payments- 877-521-8NYS or www.paynystateatetax.com).



Please note that these service providers will charge you a fee. The "convenience fee" payable by a taxpayer may vary between the two providers; however, most taxpayers will be charged between 2-3% of the credit card payment. Also, some banks that issue MasterCard may treat this payment as a cash advance instead of a purchase, and charge a cash advance fee.

The best course of action is to check with the financial institution that issued your credit card to see how it will treat this transaction, because not only would you be charged a cash advance fee, but also there is no grace period with respect to cash advances. Interest begins to accrue on cash advances the day the transaction is completed.

For more information on paying by credit card, please call tax supervisor Brendan Logan at 631-752-7400, extension 253. 


(continued from page 1)

Notable & Quotable

For more than 10 years, the New York State Association of Health Care Providers has asked health care partner **Gary Carpenter** to update their Members on the changing environment of the home health care industry. This year Gary's discussion was an overview entitled, "Wall Street Views of the Health Care Industry," at which he talked about the growth period of the health care industry, the circumstances that led to problems in the last few years, and what the future holds.

In order to best serve our public company clients, the firm's SEC audit managers **Tom Caner, Pat Fahey** and **Andy Vuono** recently attended the annual AICPA National Conference on Current SEC Developments in Washington, DC.

"The conference provided us a good overview of current projects and new pronouncements that may have an effect on publicly traded companies that we service," said Pat, who led the discussion at Holtz Rubenstein's SEC seminar last month entitled, "SEC Hot Topics."

If you are interested in more information about the next seminar in our SEC series please call Marketing Director Flo Federman at 631-752-7400, extension 212. 

(continued from page 2)

Benefits Provided to Taxpayers With Foreign Activities

There is, however, a provision that waives the above foreign economic process for certain "small" taxpayers. A small taxpayer is defined as an eligible taxpayer with qualifying foreign sales of less than \$5 million. Therefore, businesses with up to \$5 million in qualifying foreign sales are not subject to the foreign economic process requirement. In determining whether this amount has been reached, the receipts of related persons and/or entities will be aggregated to avoid manipulation.


The amount of extraterritorial income that can be excluded will depend on the method the taxpayer opts to use. Typically, you would select the method that would result in the greatest reduction in taxable income, from these three choices:

1. 15% of the net income from the transaction;
2. 1.2% of the gross receipts from the transaction (capped at two times method one); or
3. 30% of the foreign sales and leasing income derived from the transaction.

The benefit to each business, therefore, is its U.S. tax rate multiplied by the exempt income. For example, under method 1 above, a federal tax rate of 29.75% (35% rate x 85%) would result for a corporation and 33.66% (39.6% rate x 85%) for an individual.

Guidance relating to this new legislation appears to be slow in developing. A revenue procedure was supposed to be

issued prior to the start of the New Year but has yet to be released. This legislation is generally effective for transactions after September 30, 2000.

For additional information on these new rules, contact tax manager Rick Margaroli at 631-752-7400, extension 263. 

This publication is designed to present matters of general interest relating to accounting, taxation and business management. It is not intended to constitute accounting or tax advice. Articles were written by the staff of Holtz Rubenstein & Co., LLP and the American Institute of Certified Public Accountants. Please consult your HR & Co. adviser before taking any specific actions.

©2001 Holtz Rubenstein & Co., LLP