

# Bangerter, Lund & ASSOCIATES

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## Newsletter

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### MONTHLY NEWSLETTER - DECEMBER 2008

Get documentation for your charitable contributions!

It's important to remember that tax deductions are allowed only when the tax laws are followed and proper documentation is retained. This point was underlined in a recent Tax Court case dealing with charitable contribution deductions.

#### **Tax Court ruling**

The Tax Court, IRS, and the taxpayer all agreed that checks in the total amount of \$6,100 were written to a qualified charitable organization. All of those checks were for amounts greater than \$250 each. However, the IRS claimed that the deduction should not be allowed since the taxpayer did not have appropriate documentation for the contributions.

The law clearly states that in order to claim a charitable contribution for an amount of \$250 or more, a contemporaneous written acknowledgement must be received from the charitable organization. The law also states that in order for an acknowledgement to be considered contemporaneous, it must be provided to the taxpayer before he files a return for the tax year in question or before the due date (including extensions) for filing the return, if earlier. Additionally, the acknowledgement must also state whether the charity provided any goods or services in consideration for the contribution.

In this case, the taxpayers (a married couple) prepared their 2005 return in April 2006 and claimed their charitable contribution deduction based only on their cancelled checks. When the IRS audited their return, these deductions were denied due to lack of acknowledgement from the charity. During the audit, which took place in 2008, the charity provided a written acknowledgement to the taxpayer. However, the IRS continued to deny the deduction. In order for the acknowledgement to be considered contemporaneous, it was required to have been received by the taxpayers in 2006 – when the taxpayers actually filed their 2005 tax return. The Tax Court agreed with the IRS that since the proper documentation was not provided at the time required by law, the deductions should be denied.

#### **Required documentation**

In order to claim any deduction, you must comply with the law and substantiation requirements allowing those deductions. If you have made charitable contributions of \$250 or more, you must receive the proper acknowledgement from the charity on a timely basis in order for the deduction to hold up under IRS review. For contributions of less than \$250, a cancelled check or credit card receipt is considered valid substantiation (although an acknowledgement from the charity would still be best).

The rules regarding deductions in general and charitable contributions specifically can be complicated. If you have questions, please contact our office.

## **How to help your child get started in business**

Perhaps you're thinking of helping one of your children get started in business. Since the failure rate for new businesses is high, you need to do whatever you can to increase your child's chances of success. That includes considering three M's: motivation, money, and mentoring.

\* **Motivation.** To succeed, your child must be motivated. He or she may like the idea of self-employment but lose interest when confronted with the realities of planning and preparation.

Before involving yourself, find out how much time, thought, and effort your child has already devoted to the proposed business. If the enterprise is no more than an idea, you can suggest approaches to researching the market and determining the resources, knowledge, and skills that will be needed. However, your input should be limited to guidance and ideas. Your child should do the work.

Once your child has completed the necessary groundwork, and if the project still seems reasonably feasible, you'll be ready to consider the next steps.

\* **Money.** Whether you're making a loan or buying an ownership interest, never put up more money than you can comfortably afford to lose. Try not to be the sole source of capital. Risk is part of the business experience, and your child should have some personal assets at stake. Although loans from outside sources may also be part of the mix, they should be limited in order to keep the debt service from becoming overwhelming.

Set limits. Make it clear that you'll lend or invest a specific amount and no more. You also may wish to set restrictions on the use of the funds within the business.

Put everything in writing. Loans should be supported by signed notes that stipulate repayment terms and require interest at market rates. Investments should be supported by partnership agreements, shareholder agreements, or similar documents that describe operating arrangements, profit and loss sharing, buyout provisions, and closing contingencies.

Don't forget tax planning. You probably will want to allocate any taxable income to your child, and you certainly will want to be able to write off your loss if the business goes bad. Proper documentation will be paramount, since the IRS closely scrutinizes family transactions.

\* **Mentoring.** Remember that the primary objective is to give your child business experience. Explain the reasons behind each of your requirements, and make it clear that the child must consider your input as a condition of accepting your money. You should offer advice freely, but let your child make most of the business decisions. Mistakes are part of the learning process.

If you're thinking about helping your child get started in a business, give us a call. We'll be glad to offer guidelines to fit your particular circumstances.

## **New rates issued**

### **Standard Mileage Rates Lowered for Business, Moving and Medical Purposes.**

IRS Issues Revenue Procedure 2008-72 providing that the standard mileage rates for the use of automobiles beginning on Jan. 1, 2009 will be 55 cents per mile for business miles driven, 24 cents per mile driven for medical or moving purposes, and 14 cents per mile driven in service of charitable organizations. The new rates for business, medical and moving purposes are slightly lower than the rates during the latter half of 2008, which were increases by a special adjustment in response to soaring gas prices.

## **Season's Greetings!**

Thank you for the opportunity to serve you this past year. Warmest wishes for a happy holiday season and a prosperous new year.