

## CLIENT NEWSLETTER - JUNE 2003

As a business owner, there have been some interesting and important developments we think you should know about. Here are summaries of these developments:

***Schedule K-1 matching program.*** The IRS has restarted its K-1 matching program to make sure that owners of pass-through entities, such as limited liability companies and S corporations, report their share of income and other items on their personal returns in exactly the same way as they are reported to the IRS. If these items are reported in any other way or omitted, you may expect to receive a letter from the IRS.

***Suggestion:*** If you believe some items have been reported to you incorrectly, let's try to correct the matter at the entity level to avoid any IRS inquiries about proper reporting.

***Asbestos abatement program.*** If you own a building with an asbestos problem, you may be able to currently deduct your expenditures instead of capitalizing the costs of asbestos removal and/or encapsulation.

Recently a federal appellate court allowed a company to claim a current deduction for its asbestos abatement efforts. The company had constructed the building and included asbestos for fire retardant purposes; at the time of construction (in the early 1970's), nothing was known of the harmful effects of asbestos. When the material started to break down, causing asbestos to become dangerous, it adopted an abatement program. Since these efforts did not increase the value or original service life of the property the costs could be deductible as ordinary business expenses, just like repairing leaky pipes.

***Suggestion:*** If you are contemplating an asbestos abatement program, let us review your situation to make sure that your cost can be current deductions. This will enable you to budget effectively for the program.

***Deferral of income for accrual method taxpayers.*** If your business is on the accrual method of accounting, soon it may not need to take into income certain payments even though all events have occurred to fix the liability with reasonable certainty. Deferral can mean a reduction in your current income projects for tax purposes without any real economic reduction. The IRS has proposed to develop certain exceptions to the rule on immediate accrual of income.

*Advance payments for certain non-service and mixed services/non-service situations.* (This might apply, for example, to situations similar to American Express's receipt of an annual membership fee that could be accrued at the rate of one-twelfth per month).

*Prepayments of goods or services in one year for a transaction completed in a subsequent year.* The IRS would permit income to be deferred until the year of completion and delivery in certain cases.

***Estimated taxes.*** Owners of pass-through entities must pay their income taxes through quarterly estimated tax payments in order to avoid penalties. Generally, you can rely on certain safe harbors when determining the amount of your payments. You will not be subject to any estimated tax payments if your total installments for the year are at least either of the following:

90% of your tax liability for the current year.

- 100% of your tax liability for the prior year (or 110% if your adjusted gross income, if your tax liability for the prior year was over \$150,000).

The IRS recently ruled that you can rely on the prior year's safe harbor even though the prior year's return is filed late. The only requirements for this reliance is that the prior year consists of a full 12 months and that the return actually be filed at some time.

To discuss your estimated taxes or any of these other matters, please contact us.