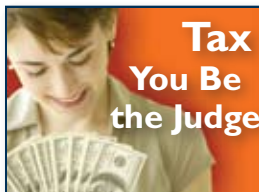


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Review Outlook



Quiz Rodolfo was a golf coach at the local high school. Because the school did not provide a facility where the team could practice, Rodolfo joined a local country club. The club allowed the team to practice on the putting green three times a week and Rodolfo used the club to practice and maintain his own skills. Rodolfo deducted the dues as a business expense. The IRS denied the deduction. Rodolfo appealed the disallowance to the Tax Court. Who won?
You can find the answer later in this newsletter; but read the articles first.

When You Buy That Raffle Ticket

As part of its annual carnival, a school conducts a raffle for which the prize is a new automobile worth \$35,000. You buy a \$100 ticket, but



you do not win the car. Can you deduct the \$100 as a charitable contribution? Many taxpayers would answer in the affirmative, but, in fact, they would be wrong. Raffle tickets are not deductible charitable contributions, regardless of the nature of the entity conducting the raffle.

The technical reason for this is that you are not making a deductible contribution when you receive something of value in return for your gift. In this case, you are receiving a chance to win the car in return for your payment; therefore, no deduction.

The bottom line is that you are gambling when you buy a raffle ticket. If you do not win the prize, you

have a gambling loss. Generally, gambling losses are deductible only to the extent of gambling winnings. (The flip side of this is that the car, if you win it, constitutes gambling winnings and you can offset the income therefrom by your other gambling losses).

Let's create some scenarios:

Scenario One: You buy three raffle tickets, but you list the school as the owner of the tickets. One of the tickets wins the car. Being the owner of the ticket, the school keeps the car. In this case, you have no income,

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SPAM, SPAM, SPAM, SPAM ...

By Les Nettleton – Director of Information Technology Services

“Lovely SPAM, Wonderful SPAM” are lyrics of a song in a Monty Python skit. But, in today’s world of technology, there is nothing lovely or wonderful about it, much less funny.

Spam, by definition, is unsolicited commercial e-mail. In 1994, the early days of spamming, it was no more of a nuisance than junk mail delivered by the postman. However, the widespread acceptance of e-mail and the internet in society have offered spammers easy opportunities to spread their wings.

Consider these mind-boggling numbers:

- The cost of spam in 2006 to corporations is estimated at \$50 billion globally with \$17 billion lost by U.S. businesses alone
- 40% of all e-mail is spam
- 12.4 million daily spam messages are sent worldwide
- An average individual receives about 2,200 messages per year and spends 5 seconds on each message
- Amazingly enough, studies show that 28% of users who receive spam reply back to the spammers!

This problem is not going away - experts predict that these spam statistics will increase by 76% in 2007.

So, is there a way to stop spam? While the anti-spam silver bullet hasn’t been invented yet, there are some interesting technologies being employed in the fight against spam.

The major anti-virus manufacturers are selling spam filtering products. This type of software reviews each

e-mail message received by looking at the words or phrases in the message and compares them to a list of known spam words to determine if the message is spam. If the message is determined to be spam, it is usually quarantined or moved to another folder where it can be reviewed at a later time. While your inbox is not constantly bombarded by spam, you must still scan the quarantine folder for any e-mails that may have been isolated in error.

Some companies are now employing a registry system in which you must be registered in order for that company to receive your e-mail. The company starts with all e-mail addresses being restricted. When a new e-mail is sent to that company, the spam software sends back a reply with a link for the original e-mailer to click. This link verifies to the company that the sender is valid, since spammers would never reply back to messages due to the volume of returned e-mail. But, potentially good e-mail may never

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Uncle Sam and Club Dues

Congress is always talking about the need to prevent wealthier taxpayers from deducting their life styles on their tax returns. For example, the Internal Revenue Code limits the amount of depreciation you can claim on your automobile used for business purposes such that the depreciation allowed on a more expensive car is the same as the amount allowed for a less expensive car.

Some time ago, Congress passed a law denying a tax deduction for amounts paid or incurred for membership in any club organized for business, pleasure, recreation or other social purposes. According to the IRS, this ban extends to clubs such as country clubs, golf and athletic clubs, airline clubs, hotel clubs and clubs operated to provide meals under circumstances generally considered to be conducive to business discussion.

Unless a principal purpose of the organization is to conduct entertainment activities for members or their

guests or to provide members or their guests with access to entertainment facilities, dues for business leagues, trade associations, chambers of commerce, boards of trade, real estate boards, professional organizations (such as bar associations and medical associations) and civic or public service organizations are still deductible.

Suppose you meet at your club for lunch with a client. You discuss a pending transaction with the client while dining. The cost of the meal is still deductible. The restriction on deduction only extends to the dues.

B *Comments: The limit on deductibility should also extend to your carnival club dues. A court case finding Bacchus*

dues to be deductible as business expenses was decided before the law was changed to deny deduction of club dues.



eBulletin

As a complimentary service to our clients and friends, Bourgeois Bennett provides individual and business tax information throughout the year via short email alerts. If you would like to receive our eBulletin, simply email Ted Stacey, Director of Tax Services at teds@bb-cpa.com and insert "eBulletin" in the subject line. You will be added to the list. We do not share our lists.

When You Buy That Raffle Ticket *Continued from page 1*

but you might have a charitable contribution in the amount of the ticket. (Rather than your buying raffle tickets with the school as the owner of the ticket, we suggest you simply make a separate contribution of \$300 to the school.)

Scenario Two: You buy three raffle tickets, but you list your daughter as the owner of the tickets. One of the raffle tickets wins the car. You have made a \$300 gift to your daughter and she must pick up the value of the car as income.

Scenario Three: Let's suppose you keep the raffle ticket and you win the car. In this case, you must report income of \$34,900 (the fair market value of the car, less the cost of the winning ticket). However, since the car represents

gambling winnings, you can also deduct your other gambling losses, although as miscellaneous itemized deductions.

"...you are not making a deductible contribution when you receive something of value in return for your gift. In this case, you are receiving a chance to win the car in return for your payment; therefore, no deduction."

Scenario Four: Now let us suppose you receive a call from the school informing you that you have won the car. In a fit of generosity, you refuse the car and allow the school to retain it. In this case, you have no reportable income.

Scenario Five: You receive a call from the school informing you that you have won the car. You accept the car and then donate it back at a later date. You have reportable income and then a later charitable contribution deduction (for the value of the car at the date of the contribution).

Speak 2 U?

We are happy to discuss taxes and tax planning, personal and business financial health, information technology and other topics with community organizations. If you need a speaker for your upcoming meeting, please contact Janice Chaffin at 504.831.4949 or janice@bb-cpa.com.

B Recommends: Many charities do not realize that the award of a raffle prize worth \$600 or more and at least 300 times the amount of the wager must be reported to the IRS on Form W-2G. In addition, if the value of the prize is more than \$5,000, the prize is subject to income tax withholding. If you are running a raffle for a charity and have prize values that high, be sure to get the name, address and Social Security or taxpayer identification number of the winner.

Do I Need a Forensic Accountant?

By John Dillworth – Litigation Services Consultant

In the wake of recent accounting scandals involving corporate giants like Enron and WorldCom, the field of forensic accounting has received increased attention. And yet, most people still may not have a clear idea as to what it involves or how its practitioners can help individuals and businesses with their everyday problems. Let's clear up some of the mystery surrounding this growing profession.

Forensic accounting is, at its simplest, accounting that is suitable for use in legal proceedings. This is akin to the practice of forensic medicine, which focuses on preparing medical evidence for use in the courtroom. It's a forensic accountant's job to examine the evidence, find the facts, and present these facts to the client. No legal opinions regarding guilt or innocence are ever rendered.

Specialists in forensic accounting provide their expertise in two areas – litigation support and financial fraud investigations. They focus on a wide array of issues within these areas including, but not limited to, acquisitions, antitrust, bankruptcy, construction claims, cost estimation, fraud, embezzlement, lost profits and patent infringement.

“So isn't a forensic accountant really an auditor?” you might ask. Well, like auditors, they pour over

tremendous amounts of data during the course of their work to arrive at their conclusions. However, forensic accountants typically examine a very narrow scope of the business involved and at a far greater level of detail than you would ever reasonably expect from an audit.



Here are a few instances in which a forensic accountant's services might be necessary:

- Fraud - Perhaps one of the most valuable services a forensic accountant can perform for business owners is the design of effective internal controls for fraud prevention. Unfortunately, clients usually seek help after the damage is already done. Being proactive in strong internal controls can protect your business from fraud and embezzlement.
- Shareholder/partner Disputes - Forensic accountants can investigate the books and records of a client relating to a shareholder or partnership dispute. Their role is to help determine the facts of the parties' disputed finances. They can also prepare business valuation reports or appraise fixed assets.
- Insurance Claims - Insurance companies, businesses and individuals often retain forensic accountants to review personal injury and business interruption

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Do I Need a Forensic Accountant? *continued from page 5*

claims as well as calculations of damages due to employee dishonesty.

- Marital Dissolution - Individuals involved in marital disputes and dissolutions and/or their attorney may retain a forensic accountant to determine the facts of the parties' disputed finances.
- Damage Analysis - A forensic accountant also performs analyses of damages and testifies before an arbitrator, mediator or court about findings of fact and expert opinion. This could include calculating lost profits caused by contract breaches and other

torts, construction delay cases, trademark or patent infringement cases or lost sales commissions due to wrongful termination among others.

B *Recommends: The growth of the forensic accounting field is due to the nature of complex litigation and fraud. Retaining a forensic accountant proactively, rather than reactively, can often result in the saving of thousands and maybe millions of dollars. If you think you or your company may need assistance, please contact George Panzeca, Director of Litigation Services or John Dillworth, Litigation Services Consultant in our Metairie office.*

SPAM, SPAM, SPAM, SPAM ... *Continued from page 2*

get through since some replies may themselves be considered spam by other filters.

Another option is to contract with a third party company to filter spam. These companies proactively delete known spam and quarantine potential spam, which can reduce the number of e-mails in the quarantine folder by 95%. We implemented this solution at Bourgeois Bennett last month and are thrilled with the results.

The best way to fight spam is to be **proactive**. Here are suggestions:

- Restrict access to your e-mail address. If you sign up for anything on the internet, be sure you have created a separate e-mail address specifically for that use. Consider three e-mail addresses: one for

work, one for home and one for the internet.

- Never "unsubscribe" to a spam e-mail. By doing so, you not only validate your e-mail address, you are also moved to a preferred list by spammers since you've now proven that you are willing to read their message and reply.
- Be careful when sending greeting cards via Internet. Not only do you offer your own e-mail address to the company, you have unwittingly compromised your friend's personal email address as their email address is now exposed.

B *Recommends: If you have any questions or concerns regarding your e-mail system and the way you are currently handling your spam, please contact Les Nettleton in our Metairie office.*

HSA Accounts – Better in 2007!

By Bev Nichols, CPA, Director - Employee Benefit Services

If you are covered through a qualifying high-deductible health insurance policy, you may set up a Health Savings Account (HSA). For 2007, the qualifying high-deductible insurance policy must have a deductible of at least \$1,100 for self-only coverage and \$2,200 for family coverage with out-of-pocket expenses limited to \$5,500 for self-only and \$11,000 for family coverage.

What's New for 2007?

Prior to 2007, you could deduct the smaller of the policy premium deductible or the statutory limits, which for 2006 were \$2,700 for self-only and \$5,450 for family coverage. For 2007, you can fund and deduct up to the statutory limits (\$2,850 and \$5,650) without being limited to the policy premium deductible.

In addition to the regular HSA contribution and deduction, if you are age 55 or older, you may contribute and deduct an additional catch-up amount of \$700 for 2006 and \$800 for 2007.

The contribution limit for part-year coverage has been repealed. You can now make the full deductible HSA contribution for the year if (1) you are covered by the HSA during the last month of the tax year and (2) you continue to be eligible for the HSA for the next 12 months.

You may also make a one time IRA distribution to fund an HSA. The transfer must be trustee to trustee and it will not be subject to income or penalty taxes if the holder remains enrolled in the HSA for 12 months following the transfer.



A one time rollover from an FSA (Flexible Spending Account) and an HRA (Health Reimbursement Arrangement) to an HSA is also now allowed. The transfer is limited to the lower of the balance in the transferor account on September 21, 2006 or the transfer date. The transfer must be done by the end of 2011 and the HSA holder

must continued to be enrolled for 12 months following the transfer.

B *Recommends: If you need more information about the new rules for Health Savings Accounts and how they may benefit you, call Bev Nichols in our Metairie office at 831-4949.*

Welcome Aboard!

Bourgeois Bennett is pleased to have Natalie Barranco on board in our Audit Department.



Bourgeois Bennett

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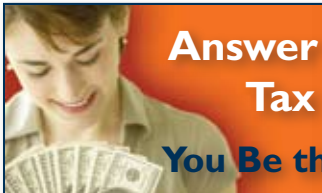
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*Review and Outlook is written by our Director of Tax Services, Ted Stacey, CPA, to give you a brief overview of pertinent
topics. You should obtain professional advice before making financial or tax decisions.*



Answer to the Tax Quiz You Be the Judge

Going back to Rodolfo's case, how would you rule?

The court decision: for the IRS. The Internal Revenue Code provision denying deduction for club dues provides no exceptions, even where the member had a business reason for belonging. *Rodolfo Garcia, Jr.*, TC Summary Opinion 2005-2

Quote of the Month Club

Love will find you when you least expect it. Which makes it more like the IRS than we think.

– Jeff MacNelly (“Shoe”)