Delete Those Common E-mail Mistakes

It is normal for a busy business owner or employee to conduct business activities by e-mail, text or other electronic means. This gets the message across in a hurry. But, just because these communications are fast does not mean they should be sloppy or misleading. Avoid making the types of mistakes that often plague business people in the 21st century. For example:

- *Use proper grammar, punctuation and spelling. Failure to do so leaves a bad impression.*
- *Do not ramble on or become bogged down in complexity. Keep it simple.*
- *Remain professional. Insulting or condescending messages reflect poorly on the company.*
- *Do not make broad assumptions. When possible, customize e-mails for targeted groups.*
- *Have a valid reason for sending out a message. Do not inundate the recipient's mailbox.*
- *Keep important parties in the loop. When appropriate, use "Reply to All" before sending the response.*
- *Do not ignore business e-mails or texts. It is almost like the recipient is saying to the sender, "I am more important than you." Respond when it is called for.*

Do not ignore business e-mails or texts. It is almost like the recipient is saying to the sender, "I am more important than you."

- *Read the message over before sending it. This can avoid embarrassing typos or gaffes.*

This list is by no means all-inclusive. Other mistakes, in the form of commissions and omissions, are often made in electronic communications. However, fixing these common errors is certainly a good start. ■

Brock and Company
Certified Public Accountants
Business Advisors
A PROFESSIONAL CORPORATION

1930 17th Street Suite 200
Boulder, CO 80302

Return Service Requested

PRSRT STD
U S POSTAGE
PAID
BOULDER, CO USA
PERMIT NO. 909

Wandry Leaves Them Wondering

In a landmark case decided last year (Wandry, T.C. Memo 2012-88), the Tax Court allowed the use of a unique formula clause to value business interests transferred from a limited liability company (LLC) to family members. But, now the IRS has issued a notice on "nonacquiescence," meaning that it intends to continue contesting the issue, even though it is not appealing the decision.

Basic premise: When business assets are transferred to family members, the transfer is subject to gift tax. However, any gift-tax liability may be offset by the lifetime gift-tax exemption and the annual gift-tax exclusion. For 2013, the lifetime gift-tax exemption has been increased to $5.25 million by the new American Taxpayer Relief Act (ATRA), while the annual gift-tax exclusion is $14,000 per recipient.

Briefly stated, here is what happened in the Wandry case: In 2004, the taxpayers executed gift documents transferring LLC units to their children and grandchildren. The documents specified the dollar value of each gift (using the prevailing gift-tax exclusions) but left open the number of units gifted, based on the fair market value of the business to be determined by the IRS or a court of law. *This type of formula clause in gifting documents often includes a "spillover" provision, with any excess value going to charity.*

The IRS argued that the gifts represented a transfer of fixed percentage interest instead of a specified dollar value. As a result, the transfer should be invalid under the law. But the Tax Court disagreed with the IRS. The court said that this was a valid formula clause, even though there was no spillover provision to charity.

Other taxpayers may take advantage of a similar clause, but the IRS is likely to object. Rely on professional advisers, and proceed with caution. ■

GLOBAL FOCUS

We are members of AGN International, Ltd., (AGN), an association of 199 accounting and consulting firms with 465 offices around the world. Our affiliation with AGN International assures collaboration with foremost authorities in taxation, auditing and business management across the globe. AGN enables us to provide accounting and consulting expertise in an array of industries in over 300 major cities in the U.S., Canada, Mexico, Europe, West Asia, Asia Pacific, Africa, and Central and South America.

This publication is intended to provide accurate authoritative information on the subject matter covered. This publication does not have any official authority and the information contained therein should not be acted upon without professional advice that should be related to specific situations. © 2013

FRONT RANGE
Footnotes

Volume 27, Issue 2
Second Quarter, 2013

MEMBER OF

Questions to Answer Before Retirement 3

Make 2012 a Tax Election Year 3

Delete Those Common E-mail Mistakes 4

Top 20 Changes in New Tax Law

The new American Taxpayer Relief Act of 2012 (ATRA) — signed on January 2, 2013 — features sweeping tax changes for both individual and business taxpayers. Here is a roundup of 20 of the most important provisions.

TAX CHANGES FOR INDIVIDUAL TAXPAYERS

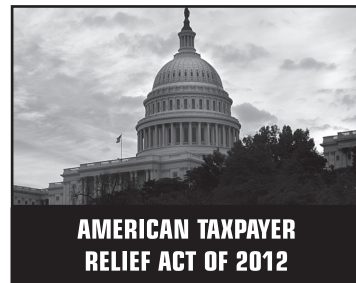
1. Income tax rates: ATRA permanently preserves the federal income tax rate structure in effect for 2012 with one addition. It creates a top income tax rate of 39.6 percent for single filers with taxable income above $400,000 and joint filers with taxable income above $450,000.

2. Capital gains and dividends: Previously, taxpayers could benefit from a maximum 15 percent tax rate (0 percent for certain low-income taxpayers) on long-term capital gains and qualified dividends. ATRA permanently preserves the favorable tax rates, which were scheduled to expire after 2012, with one addition. It creates a maximum tax rate of 20 percent for single filers with taxable income above $400,000 and joint filers with taxable income above $450,000.

3. Alternative minimum tax: The alternative minimum tax (AMT) is permanently "patched" through increased exemption amounts (indexed for inflation) and allowing nonrefundable personal credits to offset AMT and regular income tax liability in full. The changes are retroactive to the 2012 tax year, but millions of taxpayers will still have to pay the AMT.

4. Itemized deductions: Under the return of the "Pease rule," beginning in 2013 a taxpayer's itemized deductions generally are reduced by 3 percent of the excess adjusted gross income (AGI) above a specified threshold (but no more than 80 percent overall). ATRA raises the thresholds to $250,000 of AGI for single filers and $300,000 for joint filers.

5. Personal exemptions: Similarly, beginning in 2013 a taxpayer's personal exemptions (including dependency exemptions) are phased out if AGI exceeds a specific threshold. As with itemized deductions, ATRA raises the thresholds to $250,000 of AGI for single filers and $300,000 for joint filers.


AMERICAN TAXPAYER RELIEF ACT OF 2012

6. American Opportunity Tax Credit: The popular American Opportunity Tax Credit (AOTC) is extended for five years through 2017. The AOTC, which provides a maximum credit of $2,500, is phased out for

Continued on Page 2

The popular American Opportunity Tax Credit (AOTC) is extended for five years through 2017.

Brock and Company
Certified Public Accountants
Business Advisors
A PROFESSIONAL CORPORATION

1930 17th Street
Suite 200
Boulder, CO 80302
(303) 444-2971

900 S. Main Street
Suite 200
Longmont, CO 80501
(303) 776-2160

3711 JFK Parkway
Suite 315
Fort Collins, CO 80525
(970) 223-7855
Metro: (303) 530-9343

26 West Dry Creek Circle
Suite 710
Littleton, CO 80120
(303) 794-5661

11990 Grant Street
Suite 220
Northglenn, CO 80233
(303) 450-0400

Visit our web site at www.brockcpas.com

Top 20 Changes in New Tax Law

Continued from Page 1

modified adjusted gross income (MAGI) above $80,000 for single filers and $160,000 for joint filers.

7. Tuition deduction: This above-the-line tuition deduction, which expired after 2011, is reinstated retroactive to the 2012 tax year and extended through 2013. It may only be claimed in lieu of one of the higher education tax credits. The maximum $4,000 deduction is reduced to $2,000 for single filers with MAGI above $65,000 and joint filers above $130,000. It is eliminated completely for single filers with MAGI above $80,000 and joint filers above $160,000.

8. Tax breaks for parents: ATRA permanently extends several tax breaks often available to parents, including provisions relating to the child tax credit, the dependent care credit, the earned income credit and the adoption tax credit (and tax exclusion for employer-provided adoption benefits).

9. Estate and gift taxes: At long last, there is greater clarity in estate planning. Beginning in 2013, ATRA permanently extends the $5 million estate-tax exemption (indexed to $5.25 million for 2013), installs a 40 percent top estate-tax rate (up from 35 percent in 2012) and makes other related changes.

10. Tax extensions: Finally, ATRA extends a long list of other tax provisions, many of them retroactive to the 2012 tax year, including:

- *Optional state sales tax deduction*
- *Residential energy credit*
- *Enhanced benefits for Coverdell Education Savings Accounts*
- *Enhanced deduction for student loan interest*
- *Monthly tax exclusion for certain commuting benefits*
- *Deduction for mortgage insurance premiums*
- *Deduction for teacher's classroom expenses*
- *Tax exclusion for mortgage debt forgiveness*
- *Tax benefits for donating real estate for conservation purposes*
- *Tax-free distributions of IRA funds to charity by taxpayers age 70½ or older*

Note that these tax breaks are generally subject to specific dollar limits.

TAX CHANGES FOR BUSINESS TAXPAYERS

11. Section 179 deduction: Under Section 179 of the tax code, a business can currently deduct the cost of qualified property placed in service during the year, up to a specified limit. ATRA revives a $500,000 maximum deduction through 2013, retroactive to the 2012 tax year, subject to a phaseout threshold of $2 million. It also allows a deduction of up to $250,000 for the cost of qualified leasehold improvement property, restaurant property and retail improvement property, and extends Section 179 write-offs for computer software.

> ***It also allows a deduction of up to $250,000 for the cost of qualified leasehold improvement property.***

12. Bonus depreciation: ATRA generally reinstates the 50 percent bonus depreciation tax break through 2013. This deduction may be claimed in addition to Section 179 and regular depreciation for qualified property. However, unlike Section 179 deductions, bonus depreciation is not available for used (not new) property.

13. Qualified small-business stock: Previously, an investor in "qualified small-business stock" (QSBS) can exclude from tax 100 percent of the gain for QSBS held for more than five years (among other requirements). This tax break was set to expire after 2012, but ATRA extends the 100 percent tax exclusion to sales of QSBS acquired before 2014.

14. Work Opportunity Tax Credit: In the past, a business could claim the Work Opportunity Tax Credit (WOTC) for hiring a worker from one of several economically disadvantaged groups. The maximum WOTC credit was generally $2,400. ATRA extends the WOTC through 2013, retroactive to the 2012 tax year.

15. Credit for hiring veterans: A special version of the WOTC is available for hiring qualified military veterans. The maximum credit is $9,600 per worker. ATRA extends this credit for qualified veterans, which was set to expire after 2012, for one more year through 2013.

16. Research credit: Previously, a business taxpayer could claim a tax credit equal to 20 percent of its qualified research expenses above a base amount or use an simplified 14 percent credit. ATRA extends the research credit, which had expired after 2011, through 2013, retroactive to the 2012 tax year.

17. Qualified improvements: Under prior law, a 15-year straight-line cost recovery period was available for qualified leasehold improvements, restaurant buildings and improvements, and retail improvements. The usual cost recovery period for commercial buildings is 39 years. ATRA extends the faster 15-year cost recovery period for qualified improvements and restaurant property, which had expired after 2011, through 2013, retroactive to the 2012 tax year.

> ***ATRA extends the faster 15-year cost recovery period for qualified improvements and restaurant property.***

18. S corporation built-in gains tax: Generally, selling assets after a C corporation converts to S corporation status will trigger a built-in gains (BIG) tax, unless a holding period is met. The holding period was gradually reduced from 10 years to five years for sales of assets in 2011. ATRA extends the reduced five-year holding period for sales occurring through 2013, retroactive to the 2012 tax year.

19. Charitable deductions: Previously, a business could realize enhanced deductions for charitable donations of certain types of property, but these tax breaks generally expired after 2011. ATRA extends the enhanced deduction for donations of food inventory by qualified taxpayers (not C corporations) through 2013, retroactive to the 2012 tax year.

20. Energy tax incentives: Finally, a wide range of energy-related tax incentives for businesses are extended by ATRA, with certain modifications. These business energy provisions last for varying time periods. Obtain more details when appropriate. ■

Questions to Answer Before Retirement

Who is ready for retirement? It is important to prepare financially for this red-letter day, taking into account both anticipated costs of living on a fixed income and unexpected expenses that might also arise. *Although every situation is different, this much appears constant:* **Advance planning is *essential*.** Appropriately enough, here are several questions that should be answered:

How much income will be needed in retirement?

The usual starting point is to use current expenses minus those that obviously will no longer be required, such as the monthly mortgage payment once the home is paid off, college expenses after the children have graduated and the cost of work wardrobes. But, remember that "saving for retirement" does not come to a complete stop when retirement begins. Factor in other items that might be incurred, such as hobby and travel expenses.

How much income will be generated by outside sources?

This will likely include Social Security benefits and amounts from IRAs and qualified retirement plans. Note that taxes may reduce the bottom line, although qualified distributions from a Roth IRA in existence at least five years are 100 percent tax-free. Other distributions from traditional IRAs and qualified plans are generally taxable at ordinary income rates reaching as high as 39.6 percent for 2013 and thereafter.

> ***Other distributions from traditional IRAs and qualified plans are generally taxable at ordinary income rates reaching as high as 39.6 percent for 2013 and thereafter.***

How much income will be needed from investments?

After determining the amount of income needed and what will be received, examine the amount that will be needed from investments to make up the difference, if any. Understand that this income will have to sustain the family through retirement. As life expectancies continue to rise due to medical advances, the projected needs of investors also go up. Someone retiring in the near future may need to plan for living an additional 25 to 30 years or even more after retirement.

How will retirement savings be invested?

There are numerous investment options to choose from. Having said that, investors should continue to balance the potential for big rewards against their personal tolerance for risk. No two investors are exactly alike, so develop an investment plan that fits the situation. When appropriate, rely on expert advice from financial professionals.

Finally, here is one last piece of advice: Do not panic if the numbers do not quite measure up. For one thing, depending on the time horizon, there may be plenty of time left to provide significant savings for retirement. For another, expenses may be scaled back or certain "cuts" can be made. As a last resort, retirement could be delayed for a year or two. This could provide a longer time for savings to grow, reduce the time living on a fixed income and increase Social Security benefits. *The point is:* Consider the available options before retirement. ■

Make 2012 a Tax Election Year

Appropriately enough for a tax year in which we had a presidential election, individuals can make several critical "elections" on the 2012 tax returns that must be filed by April 15. Note that these tax choices may have been affected by the new American Taxpayer Relief Act (ATRA). *Here are five prime "candidates":*

1. **Higher education tax breaks:** Generally, a taxpayer can claim either one of two tax credits — the American Opportunity Tax Credit (AOTC) or the Lifetime Learning credit — or an above-the-line tuition deduction. ATRA extends the AOTC, with a maximum $2,500 credit, for five years. It also restores the tuition deduction for 2012 and extends it through 2013. *Caveat:* Both the credits and the tuition deduction are reduced or eliminated for certain high-income taxpayers.

2. **State sales tax deduction:** In lieu of deducting state and local income taxes, an individual can write off state and local sales tax charges. This optional deduction was extended through 2013 by ATRA, retroactive to 2012. *Another choice:* The sales tax deduction may be based on actual costs or an IRS-approved table. (Sales tax on certain "big-ticket items," such as cars and boats, can be added to the table amount.)

3. **Investment interest expenses:** Normally, deductions for investment interest expenses are strictly limited to the amount of net investment income for the year. For this purpose, the definition of "net investment income" does not include capital gains. However, a taxpayer can elect to include capital gains in net investment income by foregoing the favorable tax rate on long-term capital gains. The maximum tax rate for long-term capital gains in 2012 is 15 percent (increasing to 20 percent for certain high-income taxpayers in 2013 under ATRA).

4. **Joint vs. separate returns:** Despite the existence of the "marriage penalty," a couple will generally benefit from filing a joint tax return. However, in some cases, it may be preferable to file separate returns. For instance, a married couple may save tax by filing separately if one spouse has an unusually large amount of medical and dental expenses, miscellaneous expenses or casualty losses, due to the "floors" limiting such deductions. *Caution:* Filing separately as a married couple could have a negative effect in other areas.

5. **Tax filing extension:** This might be the most important election for some taxpayers. With the April 15 deadline rapidly approaching, a taxpayer can apply for and receive an automatic filing extension until October 15. However, be aware that this is an extension to file the return, not an extension to pay tax. A reasonable estimate of tax liability still must be made.

These are just five of the choices a taxpayer may face on 2012 federal income tax returns. Obtain expert advice concerning tax elections. ■

Loose Change

Home Office Deductions — The IRS is introducing a new simplified home office deduction. Beginning in 2013, a taxpayer who is eligible for home office deductions can claim a deduction based on $5 per square foot, for up to 300 square feet. Thus, the maximum deduction under the simplified method is $1,500. However, many taxpayers will still fare better by deducting actual expenses. Note that the simplified deduction is not available on 2012 returns.

• • •

Medical Devices — The IRS has issued guidance relating to a little-known excise tax. Beginning in 2013, a 2.3 percent tax is imposed on manufacturers and importers of medical devices. The list of devices covered by the new excise tax ranges from pacemakers to tongue depressors, but eyeglasses, contact lenses and hearing aids are specifically exempt. Individual consumers do not have to pay this tax, but it still could end up costing them indirectly.

• • •

Sick Leave — Should the rank-and-file receive paid sick days? Various legislative proposals around the country would make this mandatory. Proponents argue that sick leave has cost-saving benefits for employers such as increasing employee morale, decreasing turnover and reducing workplace contagion and accidents. Also, they rely on studies showing little impact on the bottom line. Now that one of the worst flu seasons on record is ending, more data is expected.