

# GILLAM & ZETZL, INC.

## Certified Public Accountants

January 2009

Enclosed please find your organizer for the 2008 filing season. The organizer will assist you in gathering your tax information by showing you what was reported on your 2007 return. The organizer is provided for your convenience, you should not feel compelled to use it if you already have another method of record keeping. Like last year Gillam & Zetzl will file all individual income tax returns electronically unless the client specifically requests a paper filing. Below we have highlighted some year-end tax changes and reminders, if you should have any questions, please don't hesitate to call us.

2009 will very likely be a tumultuous year for changes in the tax code. All indicators seem to be predicting rising tax rates including on capital gain transactions. We will be monitoring any potential changes carefully and encourage you to contact us throughout the year if you have questions.

### Important Tax Law Items - Individual

- The standard mileage rate for business use of a vehicle was 50.5 cents-per-mile for the first six months of 2008. Beginning July 1, 2008 the rate increased to 58.5 cents-per-mile. Beginning January 1, 2009 the rate will change to 55.0 cents-per-mile.
- An issue we mentioned in last year's letter was reinforced by a court case in 2008. Accordingly we want to remind you that charitable contributions of money, regardless of amount, will be denied a deduction, unless the donor maintains a cancelled check, bank record or receipt from the donee organization showing the name of the organization and the date and amount of the contribution. If any donation exceeds \$250 an acknowledgement that no goods or services were received must also be obtained. Also, the IRS has advised that in order to deduct payroll contributions (for example, United Way withheld by your employer) to charities the taxpayer must provide a pay stub or W-2 showing the amount contributed as well as a pledge card showing the name of the donee organization.
- Many clients sold investments near the end of the year to generate capital losses as a hedge against other capital gains. Keep in mind that you may not repurchase a particular stock sold for at least 30 days after the sale to avoid the wash sale rules.
- If you received proceeds from a de-mutualization during the years 2005 through 2008, please ask us about potentially filing a protective claim for you. It is possible that an IRS position which has been overruled by the court system caused you to pay more tax than you should have.
- A new federal property tax deduction is available for 2008 and 2009 even if you can not "itemize" your deductions. Please be sure to provide us the amount you paid for property taxes in 2008. Also, we will need to know the amount of any property tax refunds you received during 2008.
- Federal energy credits for residential properties expired at the end of 2007 and were not renewed until January 1, 2009, leaving out 2008. However, Indiana still has an insulation deduction available for certain energy efficient doors and windows, as well as the addition of insulation. Be sure to provide us the receipts for any of these types of projects performed on your residence.
- Certain qualifying taxpayers received a stimulus payment from the IRS in 2008. If you received this payment, please let us know the amount.

### Business Deductions and Law Changes

The IRS is drastically stepping up their audit division. Develop a mindset that you may be asked to produce your documentation when organizing your records this year end. That said, we thought it might be helpful to again review some of the basics. Please take a moment to review these items and please don't hesitate to contact us regarding specific questions about your business.

- In an effort to stimulate the economy, the Code §179 expensing election for equipment was increased to \$250,000 for 2008. The Indiana limit, however, remains at \$25,000. In addition, various "bonus" depreciation deductions may be available. We will discuss the various options with you to maximize your benefit.

- A frequent question we field in the office concerns distinguishing between “employees” and “independent contractors” as an employer. Under common law tests the following factors are weighed:
  - Behavioral Control – The level of detail in the instructions to the worker, the amount of training provided to the worker
  - Financial Control – Whether the worker has unreimbursed expenses, whether the worker’s services are available to the general public, how the worker is paid (by the job or on a basis measured in time), whether the worker can realize a profit or loss
  - Type of Relationship – What is spelled out in a written contract, whether benefits are provided, the term of the relationship (not specific to a project), whether the worker’s services are an important aspect of the business’s regular operations

Keep in mind that taxing authorities attempt to treat all workers as employees. If you are concerned that this may be an issue for you, please contact our office to assist you in addressing your specific facts and circumstances.

- All business expenses must be ordinary and necessary to be deductible. In addition, deductions reported on an income tax return must be verifiable. To corroborate an amount a taxpayer must have a receipt that indicates the vendor, amount, date and a description of the item or service purchased. Merely having a credit card statement (including American Express) that details the charges is not enough. You must have receipts. The backup documents must be maintained for as long as the statute of limitations remains in effect. **We recommend keeping the information for a minimum of six years.**
- Business meals with clients, customers or employees may be deductible only if the meal is (1) directly related to the active conduct of your business and (2) a substantial and bona fide business discussion takes place. Proof that these requirements were met must be documented on the receipt or in a separate journal. Meals where only business owners and their families are present are only deductible when traveling away from home. “Away from home” means requiring an overnight stay.
- Business gifts to customers and clients are limited to \$25. Any amount in excess of this limit is deemed non-deductible by the IRS. Meals and entertainment provided to customers or clients when the taxpayer is not present are considered business gifts. For example, providing sporting tickets where the business owner does not attend with the client or customer.
- Holiday or year-end bonuses paid to employees in cash or cash equivalents (like gift certificates or debit cards) are required to be treated as wages and included in their W-2 regardless of the amount. The only exception for employees is for gifts of items of a de minimus value (less than \$25, like a turkey).
- Reimbursements to employees for business deductions must fall under an “accountable plan.” This means that employees must provide receipts to their employer for the expenses. Reimbursing an employee without substantiating the expense will require treating the amounts as wages, subject to all the related payroll tax burdens.
- The personal portion of automobiles provided to employees must be included in their compensation unless they reimburse the employer for the personal usage. **Contemporaneous logs of automobile usage are required to validate the deduction.** The log should include dates, customers/vendors visited and the business purpose for each trip as well as the total miles driven on the vehicle during the year.
- The IRS will be looking to validate year-end inventories for this filing seasons. Therefore, if you have not done so before, we highly encourage you to **take a physical count of your inventory** items as of December 31, 2008. Reporting “about the same as last year” may well be a red flag to the IRS.

The above discussion of various tax deductions was necessarily concise. It should be noted that there are often subtle nuances that can impact the applicability to each taxpayer under varying conditions. We encourage you to discuss these issues with us if you have any questions about how they may apply to your situation.

As in past years, we are pre-scheduling appointments for this tax season. This concept has been well received and hopefully will help everyone’s planning again this year. If the pre-scheduled appointment does not work for you, rescheduling is no problem, just give us a call. Thank you for the opportunity to be of service to you!

**Happy New Year from everyone at Gillam & Zetzel, Inc.**