

**T**<sub>TAX AND</sub>  
**B**<sub>BUSINESS</sub> **Alert**™

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Many of us would like to turn our hobby into a regular business. That's fine as long as the business turns a profit. And, it may be fine as well if the business produces a loss and you enjoy the activity; even better if the loss can offset income from your day job. However, if the business consistently generates losses, the IRS could determine that these losses are actually nondeductible hobby losses.

Many hobby loss issues center on the weekend farmer or rancher. However, the rules are applicable to any type of activity in which you might engage. In any case, your activity must be conducted with the actual and honest intent of making a profit to escape the hobby loss taint.


There are two ways to avoid the hobby loss rules. The first way is to show a profit in at least three out of five consecutive years (two out of seven years for breeding, training, showing, or racing horses). The second way is to run the venture in a way that shows you intend to turn it into a profit-maker, rather than operate it as a mere hobby. The IRS regulations themselves state that the hobby loss rules won't apply if the facts and circumstances show that you have a profit-making objective.

## Are You a Business Owner or Hobbyist?

The best way to prove that you have a profit-making objective is to run the new venture in a businesslike manner. More specifically, the IRS and the courts will look to



the following factors: how you run the activity; your expertise in the area (and your advisers' expertise); the time and effort you expend in the enterprise; whether there's an expectation that the assets used in the activity will rise in value; your success in carrying on other similar or dissimilar activities; your history of income or loss in the activity; the amount of occasional profits (if any) that are earned; your financial status; and whether the activity involves elements of personal pleasure or recreation.

Please call our office to get more details on whether a venture of yours may be affected by the hobby loss rules, and what you should do to avoid a tax challenge. 

The information contained in this newsletter was not intended or written to be used and cannot be used for the purpose of (1) avoiding tax-related penalties prescribed by the Internal Revenue Code or (2) promoting or marketing any tax-related matter addressed herein.

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# Don't Forget About Required IRA Distributions

As you are probably aware, when you reach age 70½, you must begin taking minimum required distributions (MRDs) from your IRA or IRAs. The day you must begin the required distributions is your required beginning date (RBD), which is April 1st of the calendar year you turn 70½.


If you turn 70½ in 2008, your first distribution must be taken between now and April 1, 2009.

## Example: Determining the RBD of an IRA Owner.

Sally turned age 70½ in 2008. Her RBD for purposes of all of her IRAs is April 1, 2008. She must commence distributions from her IRAs no later than April 1, 2009.

Your second distribution must also be taken in 2009. Although it is generally a good idea to delay distributions as long as possible, combining two years of required distributions into one year may have a detrimental effect on your overall tax picture. When this is the case, it may be better to take that first distribution in 2008.


Also, if you have several IRAs, you compute the minimum distribution for each IRA, but choose the account or accounts from which to actually withdraw the funds. Therefore, it may be beneficial to assess your IRAs and develop an optimal strategy for withdrawing the funds.

This is also a good time to review your beneficiary designation forms and IRA documents. At your death, your beneficiary designations and the terms of your IRA will control not only who will receive those assets but also the availability of various postmortem planning opportunities for your heirs. Given the right set of circumstances, it may be possible for your IRA assets to continue to grow in their tax advantaged environment for many years. 

# Enhanced Qualified Conservation Contribution Deduction Available

A qualified conservation contribution is the donation of a qualified real property interest (i.e., an easement) to an organization that uses it exclusively for conservation purposes. A real property interest for this purpose includes a perpetual restriction on the use of real property. The landowner does not give up ownership or control of the land; the easement only restricts what can be done on or to the land. In the typical case, a perpetual conservation easement is given to a qualified organization such as a state agency charged with preserving natural resources.

The Pension Protection Act of 2006 temporarily enhanced the value of qualified conservation contributions by increasing the maximum charitable deduction limit to 50% of your adjusted gross income (AGI) up from 30%. In addition, excess contributions not used in the current year can be carried forward for up to 15 years instead of the normal five years. Unfortunately, this provision was only good during 2006 and 2007. However, the recently enacted Heartland, Habitat, Harvest, and Horticulture Act of 2008 extended this benefit for an additional two years through 2009.

This enhanced charitable deduction opportunity is, once again, only available for a limited time unless further extended by Congress. So, please call us to discuss how you might benefit from this increased tax deduction and extended carry-forward period for qualified conservation contributions. 

Unless you have been like Rip Van Winkle and slept for the last twenty years, you are acutely aware that the cost to business owners for fuel, both gasoline and diesel, to operate their vehicles has vacillated at record levels recently. So, it is essential that business owners take advantage of every tax break possible to help offset their increased fuel costs.

To that end, Congress has enacted special rules allowing increased first-year depreciation limits for qualifying vehicles purchased and placed in service during 2008. For these vehicles, taxpayers can claim up to an additional \$8,000 of first-year depreciation (calculated at 50% of the vehicle's tax basis), thus increasing the 2008 limit for cars from \$2,960 to \$10,960 and for light trucks and vans/SUVs from \$3,160 to \$11,160. The vehicle must be new and purchased during 2008. Like the regular depreciation rules, the additional first-year depreciation is reduced proportionately when business use is less than 100%.

Heavy SUVs continue to receive favorable treatment under the tax laws. First of all, business owners can expense up to \$25,000 of the cost of a new heavy SUV (over 6,000 pounds gross vehicle weight) purchased in 2008 and used more than 50% in their businesses. These vehicles also qualify for 50% bonus depreciation in 2008. In addition, the rules that limit the amount of annual depreciation allowed on passenger automobiles do not apply to heavy SUVs. This means heavy SUVs are eligible for 50% bonus depreciation and unrestricted first-year depreciation, on top of the \$25,000 that is allowed to be expensed.

For example, the 2008 deductions for a new \$45,000 heavy SUV purchased in 2008 and used 100% for business could add up to \$37,000 (\$25,000 expense deduction, \$10,000 50% bonus depreciation deduction, and the \$2,000 first-year depreciation deduction). The maximum first-year depreciation deduction for a \$45,000 passenger automobile placed in service during 2008 and used 100% for business will only be about \$3,000.

Other heavy vehicles (non-SUVs with over 6,000 pounds gross vehicle weight) qualify

## Favorable Depreciation Rules for Business Vehicles


for even more favorable treatment under the tax laws. Not only do these vehicles escape the rules that limit the amount of annual depreciation, they also qualify for a first year expensing deduction of up to \$250,000 for 2008.

Watch out though—these more favorable rules only apply to vehicles that are not classified as SUVs under the tax law definition.

This definition includes vehicles equipped with a cargo area of at least six feet in interior length. The

cargo area cannot be readily accessible directly from the passenger compartment, but it can be either open or enclosed by a cab. Many pickups with full-size cargo beds will qualify for this exception, but "quad cabs" and "extended cabs" with shorter cargo beds may not qualify. So when you go to the dealership, be sure to pack a tape measure. Vehicles that seat more than nine passengers behind the driver's seat, such as hotel shuttle vans will qualify. This classification also includes vehicles with an integral enclosure that fully encloses the driver's compartment and load carrying device, does not have seating behind the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield, such as delivery vans.

For these heavy non-SUVs, businesses will often be able to write off the full cost of the vehicle. So, the 2008 deduction for a new \$45,000 heavy non-SUV purchased in 2008 and used 100% for business could add up to \$45,000.

If you have questions or want more information on these tax-saving opportunities, please give us a call. 



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# Compiling Your Vital Records

As your personal, financial, and legal records have grown in volume and importance

over the years, the task of organizing such documents may seem overwhelming. And yet the importance of having your vital records readily accessible cannot be over-emphasized.

In the event of your untimely incapacitation or death, your loved ones will need many of these documents to ensure that your wishes are carried out. You certainly don't want them to be burdened with locating numerous documents and records during such an emotionally difficult time.

By organizing your important records, you can express your wishes, such as how you want your property to be distributed, your intentions for life-sustaining measures, and any special preferences for your funeral and burial arrangements. By filing your documents in one convenient location, your heirs will be able to easily locate them. This helps ensure that your wishes are known and minimizes the risk of family disputes. This information will also help expedite the settlement of your estate upon your death.

Legal documents you and your spouse should compile include, but are not limited to, safe

deposit box information, wills, living trusts, durable powers of attorney, durable powers of attorney for health care, living will/medical directives, and testamentary letters. In addition, your compiled records should include social security information, Medicare or health care information, emergency contact information, professional service provider information, adoption records, death certificates, passports, and naturalization papers. Finally, your financial information including bank and investment account statements should be readily available.

Organizing your essential records can also help you understand your financial picture, plan for the future, and communicate those plans to the appropriate individuals. Once you've completed this project, you will have the peace of mind in knowing that your affairs are in order. You may wish to tackle this project all at once or a little at a time, but once you've set a goal to compile and organize your important records, you should follow through with its completion.

Although you have a number of different ways to organize your important records, we encourage you to develop a system that works for you. If you save information on your computer, be sure to let your trusted loved ones know the login information and password.

If you have questions as you gather the documents and information, please do not hesitate to contact us. Best wishes as you embark upon this important project!



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