2015 YEAR-END INCOME TAX PLANNING FOR BUSINESSES

INTRODUCTION

It's that time of year when businesses should consider year-end planning strategies. This task is particularly challenging for 2015 due to the long list of popular, temporary business tax breaks that ***expired at the end of 2014.*** In the past, Congress has retroactively extended the vast majority of these tax breaks after they expired. However, ***as we complete this letter,*** Congress has not passed legislation to extend the expired provisions. **Planning Alert!** It is worth noting that these tax breaks previously expired at the end of 2013, however legislation retroactively extending the provisions through the end of 2014 ***was not signed into law until December 19, 2014.*** So, don't be surprised if it is mid-December before Congress gets around to voting on legislation to extend these tax provisions. We closely monitor Congressional tax legislation, so ***please call our firm*** if you need a ***status report.*** **Tax Tip!** Due to the uncertainty of the status of these expired business tax breaks, we believe the best approach for year-end planning is to be ***prepared to act quickly near the end of 2015*** in case Congress passes legislation to extend these provisions late in the year. Consequently, the first segment of our letter below highlights the business tax breaks that expired at the end of 2014 – but could be retroactively extended later this year.

Even though the status of the expired business tax provisions creates uncertainty, there continues to be many *traditional* year-end tax planning strategies allowing businesses to save taxes (whether the business operates as a regular "C" corporation, "S" corporation, partnership, LLC, or as a self-employed individual). Therefore, we are sending you this letter to remind you of these time-tested, year-end tax planning strategies. This letter also highlights *new* tax planning opportunities available to businesses due to recent law changes.

To help you locate items of interest, we have divided the planning ideas into the following topics:

- IMPORTANT BUSINESS TAX BREAKS THAT EXPIRED AT THE END OF 2014
- AFFORDABLE CARE ACT'S IMPACT ON EMPLOYERS FOR 2015 – HIGHLIGHTS
- YEAR-END PLANNING WITH PURCHASES OF DEPRECIABLE EQUIPMENT, ETC.
- GENERAL YEAR-END BUSINESS PLANNING

CAUTION!

Although this letter contains many planning ideas, you cannot properly evaluate a particular planning strategy without calculating the overall tax liability on the business and its owners (including the alternative minimum tax) with and without the strategy. In addition, this letter contains ideas for Federal income tax planning only. ***State income tax issues are not addressed.*** However, you should also consider any state income tax consequences of a particular planning strategy. We recommend that ***you call our firm before implementing any tax planning technique*** discussed in this letter, or if you need more information.

IMPORTANT BUSINESS TAX BREAKS THAT EXPIRED AT THE END OF 2014

List Of Selected Business Tax Provisions That Expired At The End Of 2014. It seems that every year or two Congress allows a long list of tax breaks to expire, and this year is no exception. We are again faced with a series of popular tax provisions that benefit businesses that ***expired at the end of 2014.*** Although Congress is currently considering "extenders" legislation that would extend most, if not all, of these provisions at least through 2015, as we complete this letter, Congress has not yet extended these tax breaks. Don't be surprised if Congress doesn't get around to passing the currently proposed extenders bill until this December.

The following are some of the more popular tax breaks that have been available to businesses over the past several years that ***expired after 2014*****: 1)** 50% §168(k) First-Year Bonus Depreciation; **2)** Expanded §179 Deduction; **3)** 15-Year (Instead of 39-year) Depreciation Period For "Qualified" Leasehold Improvements, Restaurant Property, And Retail Improvement Property; **4)** Work-Opportunity Tax Credit For Hiring Workers From Certain Disadvantaged Groups; **5)** 7-Year Depreciation Period For Certain Motor Sports Racetrack Property; **6)** Research And Development Credit; **7)** Employer Differential Wage Credit For Payments To Military Personnel; **8)** Favorable S Corporation Charitable Contribution Provisions Involving Capital Gain Property; **9)** Various Tax Benefits For Qualified Energy-Efficient Expenditures And For Qualifying Investments In Empowerment Zones; **10)** 100% Exclusion (Instead Of 50% Exclusion) For "Qualified Small Business Stock;" **11)** Reduction Of The S Corporation 10-Year Built-In Gain "Waiting Period" To 5 Years; **12)** Up-Front Deduction Of Up To $1.80 Per Square Foot Of Qualified Energy-Efficient Property installed In A Commercial Building; and **13)** Credit For Builders Of Energy-Efficient Homes. **Planning Alert!** Two of the above-listed business tax breaks that are most commonly used and have the broadest impact are the ***50% §168(k) First-Year Bonus Depreciation*** and the ***Expanded §179 Deduction.*** Most observers believe that Congress will eventually extend these two provisions at least through 2015. This prediction is based, in part, on proposed legislation currently being considered by the House and the Senate. Later in this letter we discuss year-end planning strategies that could save your business taxes – even if these provisions are not ultimately extended through 2015. ***Please note*** that we monitor proposed legislation closely, so ***please call our firm*** if you need a ***status report.***

AFFORDABLE CARE ACT'S IMPACT ON EMPLOYERS FOR 2015 – HIGHLIGHTS

Employer Health Coverage Mandate Is Here. The Affordable Care Act (*ACA)* generally provides that ***"Applicable Large Employers"*** (using a 50-employee threshold) who do not offer *qualified health care plan* coverage to full-time employees could face a *nondeductible excise tax* (***"Excise Tax"***). This *Excise Tax* only applies, however, if at least one full-time employee purchases medical insurance through a government-sponsored health insurance exchange (Exchange) and receives a premium tax credit or a cost-sharing subsidy. Although *ACA* states that this provision becomes effective in 2014, last year the IRS announced that it would not impose the tax on *"Applicable Large Employers" (ALEs)* ***until 2015.*** So, this is the first year that *ALEs* are exposed to the excise tax. **Planning Alert!** An *ALE* is an employer that employed on average ***50 or more employees*** (determined by adding together the number of "full-time employees" and the "full-time equivalent employees") during ***each month*** of the ***"Testing Period"*** (i.e., the entire preceding calendar year). However, for the ***2015 tax year only,*** the IRS has generally waived the *Excise Tax* for ALEs that fail to offer qualified health care coverage to its full-time employees, unless the ALE employed ***100 or more*** employees (instead of 50 or more). Also, the ***"Testing Period"*** for ***"2015"*** would normally be the ***entire*** ***"2014" calendar year.*** However, for ***2015,*** the IRS has also announced that employers may determine whether they had 50 (or 100) or more full-time employees (including full-time equivalent employees) in the previous year by reference to a period of ***at least 6 consecutive months during 2014.*** **Caution!** The rules for determining whether the *Excise Tax* might apply to an *Applicable Large Employer* are exceedingly detailed and complex. Feel free to call our firm if you need more information.

- **Planning Alert!** Last summer, Congress enacted legislation providing that, ***effective for months beginning after 2013,*** an employee ***will not be counted*** when determining whether an employer is an ***Applicable Large Employer*** for any month that the employee has medical coverage under ***TRICARE or VA health care.*** Therefore, when evaluating whether your business is an *ALE* for 2015 and subsequent years, be sure to exclude from your 2014 monthly employee count all employees that were covered by *TRICARE* or *VA health care during that month.*

<u>New ACA Information Reporting Requirements For "ALEs."</u> The Affordable Care Account (ACA) generally requires ***"Applicable Large Employers"*** (***ALEs***) to furnish new insurance coverage reporting forms (new ***Form 1095-C***) to its full-time employees, and to file copies of **Forms 1095-C** and **1094-C** with the IRS. This new filing requirement was "optional" for calendar-year 2014, but ***is required for calendar year 2015.*** A ***Form 1095-C*** is completed for each full-time employee and reports to the IRS and to the employee the months in 2015 for which the full-time employee, dependents, etc., were offered medical coverage by the ALE. The form also includes the employee's share of the lowest cost monthly premium for self-only coverage and indicates if the employer qualifies for any ACA safe harbors. ***Form 1094-C*** serves as a transmittal for the Forms 1095-C filed by the ALE, and is also used to help the IRS determine if the employer may be subject to the shared responsibility excise tax. The following are additional details to consider when evaluating this new reporting requirement:

- **<u>Employers Subject To The Reporting Requirement.</u>** Only ***"Applicable Large Employers"*** (ALEs) are required to file ***Form 1095-C and Form 1094-C.*** As discussed in the previous segment, an *ALE* is an employer that employed on average ***50 or more employees*** (determined by adding together the number of "full-time employees" and the "full-time equivalent employees") during the ***"Testing Period."*** **<u>Planning Alert!</u>** As also mentioned in the previous segment, ***for 2015*** the IRS has generally waived the *Excise Tax* for an ALE that fails to offer qualified health care coverage to its full-time employees, unless the ALE employed ***100 or more*** employees (instead of 50 or more). Unfortunately, ***for 2015*** (and after), ALEs meeting the ***50-employee*** threshold (not the 100-employee threshold) are required to file the new Forms 1094-C and 1095-C. For example, if your business is determined to have employed 75 employees (including full-time equivalent employees) during 2014 (i.e., the Testing Period for 2015), it may be exempt from the *Excise Tax* for 2015, but it would still be required to file Forms 1094-C and 1095-C for 2015.

- **<u>ALEs Must Furnish Form 1095-C To "Full-Time" Employees.</u>** ALEs must furnish Form 1095-C to ***each employee*** who was a ***"full-time employee"*** for ***any month*** of ***2015.*** Generally, a ***full-time employee*** is an employee who, for a calendar month, worked an average of at least 30 hours per week, or worked 130 hours during the calendar month. **<u>Caution!</u>** An ALE must complete information ***for all twelve months*** of the calendar year for any of its employees who were full-time employees for at least one calendar month.

- **<u>Due Dates For Filing Forms 1094-C And 1095-C.</u>** ALEs are required to furnish a ***2015 Form 1095-C*** to ***each full-time employee*** by ***February 1, 2016,*** and submit ***Forms 1094-C and 1095-C to the IRS*** by ***February 29, 2016*** (if filing by paper), or by ***March 31, 2016*** (if filing electronically). If an ALE fails to furnish Form 1095-C to its full-time employees and also fails to file with the IRS, it faces a penalty of up to $500 for each Form 1095-C it failed to file. **<u>Planning Alert!</u>** The IRS says that it will not assess penalties for ***incorrect or incomplete information reported in 2016*** (for the ***2015 calendar year***) so long as the ALE makes ***a good faith effort to comply.*** However, this relief ***does not apply*** if the form is ***not filed timely.***

<u>A Small Employer That Provides Certain "Self-Insured" Health Care Arrangements May Have To File New Form 1095-B.</u> Generally, ***beginning with the 2015 calendar year***, providers of health care coverage that qualifies as "Minimum Essential Coverage" under the Affordable Care Act (ACA) must file new information ***Form 1095*-B** with the covered individual and the IRS disclosing certain information about the coverage. This form should be filed by health insurance carriers or sponsors for insured plans, and by government agencies that provide health care coverage under a government-sponsored program. However, in certain situations, Form 1095-B must be filed by a private employer (even if not an ALE) if the employer provides employer-sponsored *"self-insured group health plan coverage."* Although the IRS has yet to provide a precise definition of ***"self-insured group health plan coverage,"*** it is clear from the instructions to Form 1095-B that this term includes an employer-sponsored ***"health reimbursement arrangement"*** (HRA). The IRS defines an ***HRA*** as an arrangement funded solely by an employer that reimburses an employee for qualified medical care expenses up to a maximum dollar amount. The IRS has recently announced that sponsoring employers (regardless of the number of workers it employs) must file a Form 1095-B for each employee covered by an HRA, unless the employer satisfies a specific exception. For example, the IRS says that an employer would not have to file a Form 1095-B for an HRA that is provided only to employees who are covered by an insured group health plan sponsored by the same employer. **<u>Planning Alert!</u>** *Employers* that sponsor ***"self-insured***

group health plan coverage," and that don't meet an exception, are required to furnish a ***2015 Form 1095-B*** to ***each employee "covered by" the plan*** by ***February 1, 2016,*** and submit **Form 1095-B** and transmittal ***Form 1094-B to the IRS*** by ***February 29, 2016*** (if filing by paper), or by ***March 31, 2016*** (if filing electronically). If the employer fails to furnish this form to its ***"covered"*** employees and also fails to file with the IRS, it faces a ***penalty of up to $500*** for each Form 1095-B it failed to file.

Caution! These rules are extremely technical and can be quite confusing – so please call our firm if you have additional questions concerning these new reporting rules. ***Also,*** as discussed in more detail in the next segment, an HRA covering two or more employees is generally deemed to violate the requirements of ACA unless the employer also sponsors an ACA compliant health plan along with the HRA and could expose the sponsoring employer to a penalty of $100 per day for each covered employee.

Potential Penalties For Employers Sponsoring "Health Reimbursement Arrangements" Or "Employer Payment Plans." Any employer, regardless of size, that sponsors a ***"Health Reimbursement Arrangement"*** (*HRA*) or an "***Employer Payment Plan"*** (*EPP*) could face a $100 per day penalty for each covered employee. As noted in the previous segment, the IRS defines an ***"HRA"*** as an arrangement (funded solely by an employer) that reimburses an employee for qualified medical care expenses incurred by the employee up to a maximum dollar amount for a coverage period. The IRS defines an ***"Employer Payment Plan"*** **(*EPP*)** as an arrangement where the employer reimburses an employee's substantiated premiums for the employee's individual medical insurance coverage (i.e., non-employer sponsored medical insurance coverage) or the employer pays the premiums directly to the insurance company. The IRS has provided several *"safe harbors"* for certain HRAs and for EPPs that could protect employers from this harsh $100 a day penalty in certain situations. For example, the IRS says an HRA that only covers employees who are also covered by an ACA-compliant employer-sponsored health plan, will generally be exempt from the $100 a day penalty. The IRS also says that an ***Employer Payment Plan*** will be exempt from the $100 a day penalty*,* where an "S" corporation reimburses or pays the premiums for individual health insurance coverage for a shareholder/employee who owns more-than-2% of the S corporation – ***at least through December 31, 2015.*** In order for the more-than-2% shareholder to qualify for this exemption, the premiums reimbursed or paid by the S corporation must be properly included in the S corporation shareholder's W-2. In addition, if this is handled properly, the shareholder is allowed an above-the-line deduction for the insurance premiums included in his or her W-2. **Planning Alert!** Although the two safe harbors discussed above have the broadest application, ***please note*** that the IRS has also provided for ***other narrow safe harbors*** that could exempt an HRA or EPP from the $100 a day penalty. Some of these safe harbors are permanent, while others are temporary. These safe harbor provisions can be complicated. If you think your business might possibly run afoul of these rules, please contact our firm and we will help you determine whether you meet one of the safe harbors.

YEAR-END PLANNING WITH PURCHASES OF DEPRECIABLE EQUIPMENT, ETC.

The 50% 168(k) Bonus Depreciation. For most of the last decade, businesses have been entitled to a ***168(k) first-year bonus depreciation*** deduction for qualifying property (generally ***"new"*** property with a MACRS recovery period of 20 years or less). Over the last several years, the deduction percentage has fluctuated between 30% and 100% of the asset's cost. However, for qualifying property placed-in-service ***after 2011*** and ***before 2015,*** the deduction was 50% of the cost of the property. This deduction generally ***expired*** for qualifying property ***placed-in-service after December 31, 2014.*** **Observation!** As mentioned previously in this letter, proposed legislation is currently being considered by the House and the Senate to extend this deduction at least through 2015. In fact, one proposal Congress is considering would make this 50% deduction permanent. However, as we complete this letter, this legislation is still up in the air.

The "Expanded" Section 179 Deduction. Another extremely popular business tax break ***that expired for tax years beginning after 2014*** is the *"expanded"* Section 179 deduction. The Section 179 up-front deduction generally applies to the cost of qualifying "new" or "used" depreciable business property (e.g., business equipment, computers, etc.). For property placed-in-service in ***tax years beginning in 2010 through 2014,*** the overall Section 179 cap was increased to ***$500,000,*** and this $500,000 deduction limit was reduced only if the aggregate Section 179 property *placed-in-service* during the year exceeded ***$2 million.*** In addition, for ***property placed-in-service in tax years beginning in 2010 through 2014,*** a business could elect to deduct

up to $250,000 of ***"qualified real property"*** under Section 179. Unfortunately, these "expanded" Section 179 deduction provisions were temporary. Consequently, under current law, for ***tax years beginning after 2014:*** **1)** The maximum Section 179 deduction has dropped ***to $25,000*** (down from $500,000), **2)** The phase-out threshold has ***dropped to $200,000*** (down from $2 million), and **3)** ***"Qualified real property"*** and ***computer software*** no longer qualify for the ***Section 179 deduction*** at all. **Observation!** Proposed legislation mentioned previously would (if passed) re-instate each of these "expanded" Section 179 provisions at least through 2015.

Equipment Purchases May Still Save Taxes Even If The 50% Section 168(k) Bonus Depreciation And The Expanded 179 Deductions Are Not Re-Instated For 2015! As we noted above, our firm will closely monitor congressional activity concerning the reinstatement of the Section 168(k) bonus depreciation and the expanded Section 179 deduction. If the legislation is enacted for 2015, it could be a substantial after-the-fact tax savings for those who have already purchased Section 168(k) property and/or significant Section 179 property. However, regardless of future congressional action, current law allows a Section 179 deduction ***of up to $25,000,*** which begins phasing out once aggregate purchases of Section 179 property ***exceeds $200,000*** (and is phased out completely once aggregate purchases equal $225,000). There are traditional tax-saving strategies for the Section 179 deduction even if the "expanded" Section 179 deduction is not extended through 2015. For example, the maximum annual depreciation deduction (including the Section 179 deduction) for most *business automobiles* is capped at certain dollar amounts. For a business auto first placed-in-service in ***calendar year 2015,*** the maximum first-year depreciation deduction is generally capped at $3,160 ($3,460 for trucks and vans not weighing over 6,000 lbs). However, trucks and SUVs with loaded rated vehicle weights over 6,000 lbs are generally exempt from the annual depreciation caps. These *"heavy vehicles,"* ***if used more than 50% in business,*** will also qualify for the Section179 deduction (limited to $25,000).

- **Example.** Let's assume that in 2015 you purchase and place-in-service a new "over-6,000 lb" SUV ***for $40,000*** used ***entirely for business.*** If you elect to take the maximum Section 179 deduction on the vehicle, for 2015 (under current law) you could deduct: **1)** Up to $25,000 under Section 179, and **2)** Up to 20% of the remaining cost (i.e., $3,000) as regular depreciation for the first year. Thus, for a $40,000 new heavy SUV placed-in-service in 2015, you could write-off up to $28,000 in 2015 (assuming 100% business use and the half-year convention applies). **Planning Alert!** If you take the Section179 deduction on your business vehicle, and your business use percentage later ***drops to 50% or below*** in a later tax year, you will generally be required to bring into income a portion of the deductions taken in previous years.

- **"Placed-In-Service."** Generally, if you are purchasing "depreciable property" (equipment, computers, vehicles, buildings, etc.), the property must be *placed-in-service* no later than the last day of the tax year (i.e., ***by December 31, 2015*** for a calendar-year taxpayer) for you to qualify for the Section 179 deduction or for regular depreciation for 2015. ***"Placed-in-service"*** is generally considered to have occurred if the property is ***ready and available*** for its intended use. To be safe, for calendar-year taxpayers, qualifying property should be ***set up and tested*** on or before the ***last day of 2015.*** If you are dealing with a newly-constructed building or building improvements to an existing building (e.g., qualified leasehold improvement property, non-structural components of a building), the receipt of a ***certificate of occupancy*** will generally be considered evidence that the property was placed-in-service.

- **Don't Overlook The "De Minimis" Safe Harbor For Deducting Lower-Cost Items Under The Capitalization Regulations.** The recently-finalized capitalization regulations offer a ***"de minimis safe harbor"*** election which generally allows qualifying businesses to deduct immediately purchases of individual items of tangible business property (including materials and supplies) not exceeding $500 each (not exceeding $5,000 each for certain businesses that have a qualifying financial statement). Deductions under this safe harbor are not impacted by the Section 179 deduction or its dollar limits. That is, the Section 179 deduction is allowed ***in addition to*** the purchases deducted under this *de minimis safe harbor*, and there is no overall aggregate dollar limit on the total amount of deductions taken under this safe harbor. Therefore, the amount your business may deduct under the *de minimis safe harbor* will be the same regardless of whether Congress extends the "expanded" Section 179 deduction beyond 2014.

- ●● **De Minimis Safe Harbor Election.** This election is made annually (by attaching a statement to a timely filed—including extensions—original Federal income tax return). To qualify, the taxpayer generally must have an ***accounting procedure*** (as of the beginning of the year) treating as an expense for non-tax purposes amounts paid for property costing less than a specified dollar amount. If the taxpayer has an *"Applicable Financial Statement"* (i.e., financial statement filed with the SEC; a certified audited financial statement; or, a financial statement required to be provided to the Federal or a state government – other than a tax return), the accounting procedure ***must be in writing,*** and the safe harbor amount is ***$5,000 per item.*** For taxpayers that do not have an *"Applicable Financial Statement"* (most small and mid-sized business), the safe harbor amount is ***$500 per item,*** and it appears that the *"beginning of the year"* accounting procedure referred to above is not "required" to be in writing. However, we recommend that ***all businesses*** wishing to make the *de minimis safe harbor* election have a "written" accounting procedure to be safe.

GENERAL YEAR-END BUSINESS PLANNING

Failure To File Certain Information Returns Timely Has Become More Costly. This past summer, Congress enacted legislation that significantly increased the monetary penalties for failing to file certain information returns (e.g., the Form 1099 series, Form 1095-B, Form 1095-C), ***effective for returns required to be filed after 2015.*** For example, the penalty for failing to file a Form 1099 with the payee is increased from $100 to $250 for each Form 1099 and, in addition, the failure to file a Form 1099 with the IRS is also increased from $100 to $250. Therefore, under the new law, failure to file a 2015 Form 1099 required to be filed in 2016 with both the payee and the IRS would generally trigger a total penalty of $500 ($250 for failing to file with the payee, plus $250 for failing to file with the IRS). **Planning Alert!** These increased penalties are ***effective*** for information returns ***required to be filed after 2015.*** So the increased penalties will apply to Forms 1099 reflecting payments made during 2015, that are generally required to be furnished ***to the payee*** by ***February 1, 2016,*** and ***to the IRS*** by ***February 29, 2016*** if filed by paper (by March 31, 2016 if filed electronically). **Tax Tip.** If your business is required to file Forms 1099 for the 2015 tax year, it is more important than ever that you begin gathering the information that is necessary to complete the forms as soon as possible. The February 1, 2016 deadline for furnishing a Form 1099 to the payee is rapidly approaching.

S Corporation Shareholders Should Check Stock And Debt Basis Before Year-End. If you own S corporation stock and you think your S corporation will have a tax loss this year, you should contact us as soon as possible. These losses will not be deductible on your personal return unless and until you have adequate "basis" in your S corporation. Any pass-through loss that exceeds your "basis" in the S corporation will carry over to succeeding years. You have basis to the extent of the amounts paid for your stock (adjusted for net pass-through income, losses, and distributions), ***plus*** any amounts you have personally loaned to your S corporation. **Planning Alert!** If an S corporation anticipates financing losses through borrowing from an outside lender, the best way to ensure the shareholder gets ***debt basis*** is to: **1)** Have the shareholder personally borrow the funds from the outside lender, and **2)** Then have the shareholder formally (with proper and timely documentation) loan the borrowed funds to the S corporation. It also may be possible to *restructure* (with timely and proper documentation) an existing outside loan directly to an S corporation in a way that will give the shareholder debt basis, however, the loan must be restructured before the S corporation's year ends. **Caution!** A shareholder cannot get debt basis by merely guaranteeing a third-party loan to the S corporation. ***Please do not attempt to restructure your loans without contacting us first.***

Establishing A New Retirement Plan For 2015. Calendar-year taxpayers wishing to establish a qualified retirement plan for 2015 (e.g. profit-sharing, 401(k), or defined benefit plan) *generally* must adopt the plan ***no later than December 31, 2015.*** However, a SEP may be established by the due date of the tax return (including extensions), but a ***SIMPLE plan*** must have been established ***no later than October 1, 2015.***

Self-Employed Business Income. If you are self-employed, it continues to be a good idea to defer income ***into 2016,*** if you believe that your marginal tax rate for 2016 (including the new .9% Additional Medicare Tax and the new 3.8% tax on Net Investment Income) will be equal to or less than your 2015 marginal tax rate. If deferring 2015 income to 2016 will save you overall taxes, and you use the cash method of accounting, consider delaying year-end billings until 2016. **Planning Alert!** If you have already received the check in 2015, deferring the deposit does not defer the income. Also, you may not want to defer billing if you believe this will increase your risk of not getting paid.

Deferring Cancellation Of Debt Income. If you or your business negotiates or arranges a reduction or cancellation in your debt to others, unless you meet certain exceptions (e.g., bankruptcy, insolvency), you will trigger ***"Cancellation Of Debt"*** (COD) income. For example, COD income could occur where: your creditor agrees to accept as full payment an amount which is less than the balance due on an obligation; you own real estate subject to a mortgage and the lender forecloses on the property (or, you enter into a short sale of the mortgaged property); or, you own an interest in a partnership (or LLC) or "S" corporation that is anticipating a transaction that could trigger COD income that will "pass through" to the owner. **Planning Alert!** If you (or your business) are in the process of negotiating an agreement with your creditors that involves a debt reduction that could trigger COD income, consider postponing the action until ***after December 31, 2015*** in order to defer any debt cancellation income into 2016. **Caution!** The rules for determining whether a transaction may trigger COD income, or whether you qualify for an exception, are complicated. If you are currently working with a lender to potentially reduce the outstanding balance on a debt, please call our firm if you need assistance in evaluating the potential tax consequences before finalizing your negotiations with the lender.

FINAL COMMENTS

Please contact us if you are interested in a tax topic that we did not discuss. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. Our firm closely monitors these changes. In addition, please call us before implementing any planning ideas discussed in this letter, or if you need additional information. **Note!** The information contained in this material represents a general overview of tax developments and should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.

Disclaimer: Any tax advice contained in the body of this material was not intended or written to be used, and cannot be used, by the recipient for the purpose of promoting, marketing, or recommending to another party any transaction or matter addressed herein. The preceding information is intended as a general discussion of the subject addressed and is not intended as a formal tax opinion. The recipient should not rely on any information contained herein without performing his or her own research verifying the conclusions reached. The conclusions reached should not be relied upon without an independent, professional analysis of the facts and law applicable to the situation.