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THIS MONTH:

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Closing a Business Causes Short Year Filing Rules for the Final Tax Return

When a business closes before the end of a taxable year it creates a short tax year. Corporations must file their final tax return by the 15th day of the third month after the corporation closes. Partnerships will need to file their final tax return by the 15th day of the fourth month after the partnership closes. This rule can create headaches for business owners since the final tax return may be due before tax forms for that year have even been released by the Internal Revenue Service. Filing the final short-year tax return by the due date requires the business to alter the date on the previous year's tax forms so that the current year's date is shown at the top of the return, then the return must be prepared according to the current year's tax laws.

A business can alleviate much of the burden of the final tax return for the short-tax year by filing an extension. The extension allows an extra six months for corporations, or an extra five months for partnerships, before the tax return becomes due. For most businesses the required current year tax forms will be released before the extended deadline arrives. Additionally, most tax prep software will most likely be available before the extended due date of the short-year tax return. Because of the complexity of today's tax code, coupled with the recent trend of late-year changes to tax laws, it is highly advantageous to wait on tax return preparation until the tax forms and the tax software is readily available.

Deducting Casualty Losses

Casualty losses can occur when there is damage or destruction of your property which is caused by a sudden or unexpected event or natural disaster, such as theft, tornado, fire, hurricane, flood, or earthquake. Rules for deductibility of casualty losses are slightly different for business property than for personal property. In general, no deduction is allowed for insured property unless a claim for the loss was timely submitted to the insurance provider. The amount of deductible casualty losses must be reduced by any insurance reimbursements.

For business property or income-producing property, including rental property, which is completely destroyed, your casualty loss is equal to your adjusted basis in the property. For personal-use property and for property which was not completely destroyed, the deductible loss is <u>limited to the lesser of</u> your adjusted basis in the property on the date of the casualty <u>or</u> the decrease in value of the property as a result of the casualty.

Individuals with casualty losses are able to deduct the losses as an itemized deduction. For personal-use property, the first $100 of each incident of casualty loss is not deductible. After reducing each casualty loss by $100, the remaining amount of casualty loss is further reduced by 10% of the taxpayer's adjusted gross income. The individual can then report the remaining amount of casualty loss on Schedule A of their tax return.

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The 2014 Tax Filing Season Is Delayed

Expect a short delay to the beginning of the 2014 tax filing season. The IRS had anticipated beginning processing of 2013 tax returns on January 21, 2014, however, programming and system testing will be delayed by one to two weeks due to the 16 day government shutdown in October. The tentative starting date for processing returns is projected to be between January 28 and February 4.

Guidance is Still Needed for Same-Sex Couples Tax Returns

As a result of the Supreme Court decision in the United States v. Windsor, same-sex couples who are married will now be using the same filing status as traditional married couples, at least on their federal income tax returns. <u>Same-sex married couples are now required to file their federal income tax returns as either Married Filing Jointly or Married Filing Separately.</u> The IRS has issued a comprehensive list of frequently asked questions (FAQs) which address the more common issues. However, concise guidance is not yet available on all areas relating to same-sex married couples, such as how to treat alimony payments between former same-sex spouse, or how to treat property transfers between same-sex spouses. We expect additional clarification in the upcoming months.

<u>Civil unions and registered domestic partnerships are not recognized as a marriage for federal tax purposes</u>. The IRS has also issued a comprehensive list of FAQs for taxpayers who are part of a civil union or a registered domestic partnership. More than two-thirds of the FAQs for registered domestic partners relate to community property rules for registered domestic partners who reside in community property states. Members of civil unions and registered domestic partnerships will continue to file separate individual income tax returns at the federal level, regardless of the filing status requirements in their state of residence.

<u>Filing status rules at the state level will vary widely for same-sex couples for 2013</u>. There are 11 states which either require or allow joint tax returns for civil unions or domestic partnerships; despite being required to file as single status for federal income tax returns. There are 35 states which ban same-sex marriages, of which 24 currently couple their state income tax return to the taxpayer's federal income tax return. We expect guidance from these states regarding matching of federal and state return during processing. It is possible, many of those states will require the state income tax return prepared as single or head of household, using recomputed federal AGI and deductions as though the federal income tax return was prepared as either single or head of household.

Contact your local Padgett office to discuss how the Supreme Court's ruling in the United States v. Windsor affects your tax position for 2013.