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Five tax changes to watch in 2010

Whether it's Congress letting tax cuts from the previous decade expire or the Internal Revenue Service focusing on an industry crucial to Houston's economy, the tax landscape for 2010 is a moving target. Four local experts weighed in on the biggest tax changes to watch during the coming year — most won't apply to 2009 returns, and the government may yet alter them. Nonetheless, local tax experts say it's important to track these potential stumbling blocks going into 2010.

Death tax limbo

In 2001, the Bush administration raised the amount of money one could exempt from estate tax. By 2009, the figure had reached \$3.5 million. With an expiration date of Dec. 31, 2009, the law was designed to fully repeal the estate tax by 2010 unless Congress renewed it. As of January 2010, Congress hasn't yet done so, so the tax may fall back at its old cap of \$1 million in 2011. But in the meantime, there is no estate tax on the books.

"We've always assumed that if Congress did make the change they would certainly do it this year and make it retroactive," says George Hawkins, managing partner at Houston-based CPA firm Gainer, Donnelly & Desroches LLP.

There is some disagreement between the parties in Washington as to whether the new estate tax should come in at \$1 million or \$3.5 million, as well as the rate of the taxable portion, but Hawkins predicts that the code will eventually be updated and that the IRS will seek to tax the estates of those who die during the period when there was no estate tax on the books.

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"I can't imagine that those otherwise taxable estates would get off scot free," says Hawkins. "We'll probably end up with a retroactive law."

Lowered equipment write-offs

Think twice before buying that new copier.

Section 179 deductions — those that allow costs of business equipment to be written off up front as opposed to over the asset's lifespan — are taking a hit for 2010.

The amount a business can deduct for the cost of equipment has dropped from \$250,000 — the amount it had been since the passage of the 2008 Stimulus Act — to \$135,000. The 2009 American Investment and Recovery Act extended the increase in the deductible amount though Dec. 31, 2009, but that has now expired and there are no new moves from Congress to extend the measure.

David Donnelly, partner at Gainer Donnelly & Desroches, says the change will have a negative impact on small business growth. "The effect is pretty widespread," he says. "Your after-tax cost of purchasing equipment just went up. It's going to have ripples throughout the economy."

Bad year for build-outs

Property owners who are planning on making improvements on rented space to reconfigure it for a tenant should take note that they will not be able to deduct as much on these improvements starting in 2010.

"Lessors of business premises that make lease improvements will have to depreciate them over 39 years rather than if they were placed into service in 2009," says Rhett Buck, a Houston-based tax attorney.

Until 2004, the IRS required that the depreciation of tenant improvements be calculated over the life of the building itself, set at 39 years. In that year, legislation was enacted that temporarily reduced the depreciation period for tenant improvements to 15 years. That meant that the owner could deduct more from the improvement every year, but at the end of 2009, that reduction expired.

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AMT casts wider net

The Alternative Minimum Tax will continue to creep into the middle class, and for the 2010 tax year, many who thought the "back door tax" didn't apply to them should look again. "The AMT is going up for a lot of people," says Hawkins. "It used to be that it was designed to hit wealthy individuals, but now it's hitting the middle class pretty hard and may affect one in five in 2010."

The AMT was never indexed for inflation when it was created in 1967, so over the decades more and more people have come under the tax. Rhett Buck says the AMT exemptions were increased under "patch" legislation, but it needs to be renewed every year and Congress has yet to move on it for 2010. For some, the exemption will be a little more than half of what it was in 2009. All exemption amounts for the year are scheduled to head downward:

-\$33,750 for single and head of household; down from \$46,700;

-\$45,000 for married people filing jointly and for widows or widowers; down from \$70,950;

According to the Internal Revenue Service, the number of people affected by the AMT has grown from 1 million in 2001 to 30 million in 2010.

Hawkins says the "sweet spot" for the AMT bracket creep was the \$200,000 to \$400,000 income range, but the lower end of that is coming down significantly.

In 2009, the IRS announced it was going to aggressively target foreign companies and the U.S.-based companies that hire them for offshore services in the Gulf of Mexico. The IRS argued that the U.S. companies should have withheld and remitted 30 percent of the amount paid to the foreign companies. Affected companies include contractors that assist in drilling, repair work and seismographic testing, as well as operators of personnel transport services.

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