

Year End Tax Strategies for Attorneys for Funding Retirement Plans, Disability & Long-Term Care Insurance

Retirement Plans

Most of us are familiar with how to make pre-tax contributions to retirement programs such as 401(k)s and other types of qualified plans. Here are the contribution limits for different types of plans that may still be established and in some cases funded after December 31st.

2008 Qualified Retirement Plans Contributions

401(k), 403(b), 457 Elective Deferrals	\$15,500
Catch Up Contribution.....	+\$5,000
SIMPLE IRA Contribution Limit.....	\$10,500
Catch-Up Contribution	+\$2,500
SEP IRA Contribution Limit.....	\$46,000
Solo(k) Contribution Limit.....	\$46,000
Catch-Up Contribution	+\$5,000
IRA - Traditional and Roth	\$5,000
Catch-Up Contribution	+\$1,000
Defined Benefit "Pension" Plan.....	Varies and could be much higher!

The Self-Employed Now Have A New Retirement Savings Plan Choice!

Recent legislation (EGTRRA/2001) finally made a 401(k) plan both feasible and economical for an owner-only business. These Solo(k) plans have higher contribution limits than SEP and SIMPLE IRAs and are easy to set-up. The chart shows how much more can be saved in an Solo(k) plan.

Estimated 2008 Allowable Contributions*

COMPENSATION	MAXIMUM CONTRIBUTIONS		
	Solo(k)	SEP-IRA	SIMPLE IRA
\$10,000	\$10,000	\$2,500	\$10,300
\$50,000	\$28,000	\$12,500	\$11,500
\$100,000	\$40,500	\$25,000	\$13,000
\$150,000	\$46,000	\$37,500	\$14,500
\$200,000	\$46,000	\$46,000	\$16,000
\$300,000	\$46,000	\$46,000	\$19,000

*Incorporated business owner

Even Higher Deductions for 2008

If you're interested in even higher deductions for 2008, you might want to consider a defined benefit pension plan. These come in a variety of flavors – 412(i), cash balance, and more. Defined benefit plans target a specific retirement income and can typically fund a much higher amount. Remember, though, that if you have employees, you'll have to include them in the plan as well.

Long-Term Care Insurance

If you're considering long-term care and want to cut your tax bill, we'll relate three different scenarios in regards to how they affect your taxes. This is a general summary based on current tax law. Any changes to the tax law may affect the information and any of the examples provided.

CounselAssure and its representatives do not provide legal or tax advice, and nothing presented here should be considered as tax advice. Anyone considering the purchase of a long-term care policy and deducting the cost should obtain the advice of his or her own tax advisor.

Tax Treatment for Businesses

If an employer contributes to the premium cost of a tax-qualified policy for eligible employees and dependents pursuant to a plan, the contributions will generally be excludable from the employee's income and generally deductible for the business.

CORPORATIONS: the officers and owners of a C corporation may be employees, and therefore the corporation's contributions to the premium cost of qualified long-term care policies for its employee-officers may be deductible by the corporation and not taxable to the employees if the contributions are made pursuant to an employee benefit plan. If the qualified long-term care employee benefit plan is insured, it need not conform to any non-discrimination rules and may be available only to a select group of employees. But, the corporation must be able to show, if challenged by the IRS, that the plan covers owner-employees as employees and not as owners. qualified long-term care coverage may not be included in a Section 1257 plan or a flexible spending account. This means that the employer may not use salary reduction dollars to pay its premium contribution and the employee's premium contribution, if any, must be paid with after-tax dollars. The qualified long-term care plan may be offered to retired employees, eligible dependents of employees and retirees, including dependent parents, and surviving eligible dependents after an employee's death.

PASS-THROUGH ENTITIES: The owners of businesses that are organized as sole-proprietorships, partnerships, or Sub-S corporations do not qualify for the same tax treatment for qualified long-term care policies. Instead, limited deductions are same as for individuals who itemize. The percentage of premium paid for health insurance — including eligible Long-Term Care premiums — that can be deducted is 100%. While owners of pass-through entities are limited in the amount of qualified long-term care premiums they may deduct for themselves as described in this paragraph, these entities may establish qualified long-term care plans and deduct for their employees the full amount of premiums as described previously under "Corporations." An owner (or "owner/employee") is defined as an individual who owns 2% or more of the business.

Tax Treatment for Individuals Who Itemize

Taxpayers who itemize may deduct the cost of eligible LTC premiums as a medical expense on what we know of as Schedule A. Note: there is an age-

based limit on the amount of premiums for purposes of this deduction, which may be less than the actual policy cost. For 2008, at age 40 and under, it's \$310 in premium; from ages 41-50, it's \$580; for ages 51-60, it's \$1,150; for ages 61-70, it's \$3,080; and for those older than 70, the allowable premium is \$3,850.

The deductibility of premiums by self-employed individuals discussed above is also limited to eligible LTC premiums. The eligible long-term care premium limits are adjusted annually for inflation. When allowable medical expenses listed on Schedule A, including eligible LTC premiums, exceed 7.5% of the taxpayer's adjusted gross income, the excess over 7.5% is deductible.

Individuals who have other large medical expenses and a low adjusted gross income (AGI) may find that the premiums they pay for a qualified long-term care policy result in some tax savings.

Significantly Increase Your Tax Deduction By Paying A Higher Premium For Fewer Years!

If securing long-term care coverage for yourself, your spouse, or your key employees is important, there are some advanced tax-saving strategies you may want to consider.

Let's say you're consistently profitable, your taxable income is high and you'd like to pay the government less in taxes. Here's one money-saving solution: Pay for your policy on either a 10-pay basis (i.e., 10 equal payments over a 10-year period) or perhaps a single-pay (i.e., one-time) basis.

By now, you're probably thinking, "This one-pay approach sounds appealing, but isn't it a bit risky? What happens if I secure a single-pay policy today and pass soon thereafter? Wouldn't all the money I just contributed be absorbed by the insurer, leaving my family high and dry?" The answer is "yes" — unless you guard against that possibility. How? One way is to include a "refund-of-premium" option to your policy.

One caveat: If you consider making one payment, consider adding a "refund-of-premium" option to protect against passing away shortly after making the payment.

Add a Refund-of-Premium Option to Increase the Value of the Benefit and Increase Your Tax Deduction

A number of top policies now offer you the option of adding a refund-of-premium feature. A refund-of-premium option (available for additional premium) ensures your beneficiary will receive the premium you paid — less any claims paid — income tax free.

What are the advantages of this strategy? There are two: First, your tax deduction could increase significantly because your premium is significantly higher. Second, the policyholder knows that if he or she doesn't need long-term care, someone will receive all the premiums that were paid into the policy income tax free. Just keep in mind that the beneficiary can be a person, charity, or trust, but not a corporation.

Disability Insurance

You are entitled to take a deduction for disability insurance premiums, although it does not always make sense to do so. Why? Well, if you take a deduction for your disability premiums, you will have to pay taxes on any money received from the policy if it ever pays income to you. So, you would be taking a tax deduction today in lieu of receiving tax-free disability income payments later.

There are several different types of disability insurance coverage to protect

against different kinds of risk. The tax rules vary depending upon both the taxpayer and the purpose. Let's take a closer look.

Business Overhead Expense Coverage

If the risk you're trying to cover is to make sure your overhead expenses are paid, then your premiums are tax-deductible. It doesn't matter what type of business structure you have, Section 162(a) of the Internal Revenue Code allows your premiums to be deducted.

Disability Income Coverage

When you're looking to protect your income during disability, the tax rules are a bit more complex. For example, a Sole Proprietor (Schedule C) or an individual buying a policy would not receive a tax-deduction. However, a corporation buying a policy for an employee could take a deduction. S Corporations or a Partner in a Partnership could generate a tax-deduction but then have to pick up the premium paid as taxable income. This can be a bit complicated, so we highly recommend a consultation with CounselAssure's Disability Specialists.

Disability Buy-Sell Coverage

It's very smart to fund a disability policy for purpose of a buy-sell agreement, but unfortunately, no tax-deduction is allowed.

We hope this has been helpful in understanding potential tax-deductions available in 2008. Time, of course, is in short supply right now, so the sooner you get started, the better! This is particularly true for long-term care and disability insurance coverage which can take 3-6 weeks for approval from our insurance companies.

About CounselAssure

CounselAssure is a qualified member discount benefit program for members of the Los Angeles County Bar Association designed to provide valuable discounts and services in three key areas of retirement planning: the accumulation (retirement plans), protection (disability income insurance), and preservation (long-term care insurance) of retirement assets.

Whether you are a large established firm, a small practice just getting off the ground, or even nearing your own retirement, CounselAssure is committed to providing you the best products and services from only top-rated solutions providers and insurance carriers.

CounselAssure is brought to you by Retirement Strategies Group where we make retirement simple for attorneys.