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CERTIFIED PUBLIC ACCOUNTANTS

2016 Year-End Income Tax Planning for Businesses – Highlights

INTRODUCTION

Year-end planning for businesses is particularly important this year given the large number of recent tax law changes that offer new tax savings opportunities, in addition to the "time-tested" tax savings techniques that continue to apply. **Planning Alert!** It seems every year we are faced with a long list of business tax breaks that have either recently expired, or are scheduled to expire in the near future. Fortunately, the ***Protecting Americans From Tax Hikes Act Of 2015 (the PATH Act)*** has made many (but not all) of these business tax breaks permanent. For example, the following tax breaks that were previously scheduled to expire are now permanent: Expanded Section 179 deduction; 15-year (instead of 39-year) depreciation period for "qualified" leasehold improvement property, retail improvement property, and restaurant property; Research and experimentation credit; 5-year (instead of 10-year) *waiting period* for an S Corporation to avoid the built-in gains tax; 100% exclusion of gain on the sale of qualified small business stock for both regular tax and AMT purposes.

The PATH Act also extends several business tax breaks ***through 2019,*** including: The 30% Business Credit for Certain ***Solar Energy Property*** (the credit begins phasing ***out after 2019);*** The $8,000 Increase in the First-Year Depreciation Deduction Limitation for Qualifying New Passenger Vehicles which Begins Phasing Out after 2017 and phases out completely after 2019; The Work Opportunity Credit (WOTC) For Hiring Workers from Certain Targeted Groups (the PATH Act also added a new group of qualifying workers – "*Qualified Long-term Unemployment Recipients*"). In addition, (as discussed in more detail later), the PATH Act extends and expands the 50% 168(k) Bonus Depreciation Deduction through 2017.

Planning Alert! Unfortunately, several business tax breaks were extended by the PATH Act ***only through 2016.***

We are sending you this letter to help you navigate *new* tax planning opportunities available to businesses due to the PATH Act and other recent law changes. In this letter, we also remind you of certain *traditional* year-end tax planning strategies allowing businesses to save taxes (whether the business operates as a regular "C" corporation, an "S" corporation, a partnership, an LLC, or as a self-employed individual).

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 additional information.

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MONITOR STATUS OF BUSINESS TAX BREAKS EXPIRING AFTER 2016

The following business tax breaks were previously scheduled to expire after 2014, but the PATH Act retroactively extended them ***through 2016:*** Deductions for Certain Energy-Efficient Commercial Buildings; Credit for Certain Energy-Efficient New Homes; 7-Year Depreciation Period for Certain Motor Sports Racetrack Property; Tax Benefits for Qualified Energy-Efficient Expenditures and for Qualifying Investments in Empowerment Zones; and 3-year Depreciation Period for Certain Race Horses. **Caution!** Although Congress traditionally extends a majority of these expiring tax breaks, there is no guarantee that it will do so in the future. **Tax Tip.** Whether or not these provisions are extended beyond 2016, there may be real tax savings available if you take advantage of these provisions ***before the end of 2016.***

EXPANSION OF THE 168(k) BONUS DEPRECIATION DEDUCTION AND THE SECTION 179 DEDUCTION OFFER NEW TAX PLANNING OPPORTUNITIES

First-Year 168(k) Bonus Depreciation Deduction Expanded And Extended Through 2019. The PATH Act extends the first-year 168(k) bonus depreciation deduction for *qualifying* business property placed-in- service ***through December 31, 2019*** (through December 31, 2020 for certain long-production-period property and qualifying noncommercial aircraft), as follows: **1)** A ***50% bonus*** depreciation allowance for qualified property placed-in-service ***in 2015 through 2017*****; 2)** A ***40% bonus*** depreciation allowance for qualified property placed-in-service ***in 2018*** (2019 for certain long-production-period property and qualifying noncommercial aircraft)**;** and **3)** A ***30% bonus*** depreciation allowance for qualified property placed-in-service ***in 2019*** (2020 for certain long-production-period property and qualifying noncommercial aircraft*).* Generally, property qualifies for the 50% 168(k) bonus depreciation deduction if it is ***new*** property and is **1)** "*Qualified improvement property*" (discussed below), **2)** Property with a depreciable life for tax purposes of *20 years or less* (e.g., machinery and equipment, furniture and fixtures, business vehicles, sidewalks, roads, landscaping, depreciable computer software, farm buildings, and qualified motor fuels facilities)*,* or **3)** Water utility property.

- **"Qualified Leasehold Improvement Property" Replaced With "Qualified Improvement Property."** For property placed-in-service ***before 2016,*** "*Qualified Leasehold Improvement Property*" (QLIP) qualified for the 168(k) bonus depreciation deduction. QLIP generally includes capital improvements to the interior portion of a commercial (nonresidential) building that is at least three years old, and the **improvements are made pursuant to a lease** – ***provided the lease is not between related parties.*** Thus, any improvements to an otherwise qualifying building pursuant to a *"related-party"* lease ***did not*** qualify for the 168(k) bonus depreciation deduction.

  For ***property placed-in-service after 2015,*** the PATH Act provides that the168(k) bonus depreciation deduction applies to *"Qualified Improvement Property."* ***"Qualified Improvement Property"*** (QIP*)* is generally an improvement to the interior portion of an existing commercial building (provided the improvement is not attributable to an enlargement of the building, elevators or escalators, or the internal structural framework of the building). **Planning Alert!** The definition of *QIP* largely follows the definition of

QLIP – except that building improvements constituting *QIP* do not have to be made pursuant to a *lease* and the improvements only have to be placed-in-service *"after"* the building was initially placed-in-service (i.e., the improvement no longer has to be made more than *"3 years"* after the building was first placed-in- service). Therefore, an otherwise qualifying improvement to a building where the improvement is placed- in-service after 2015, may qualify for the 168(k) bonus depreciation deduction **1)** Where the property is not subject to a lease, or **2)** Where the property is subject to a lease and the lease is between related parties or unrelated parties. Thus, for property ***placed-in-service after 2015,*** otherwise qualifying improvements to a commercial building under a related-party lease may qualify for the 168(k) bonus depreciation – even though the very same improvements would not have qualified if placed-in-service before 2016!

- **New Tax Considerations For Businesses Needing To Purchase A Commercial Building.** The types of building improvements that could qualify for the newly-expanded 168(k) bonus depreciation deduction offer new tax planning opportunities for businesses seeking to purchase or construct a commercial building. In light of these changes, there may be a significant tax advantage in certain situations for a business to buy a ***"used"*** building and ***renovate it,*** rather than purchasing or constructing a ***"new"*** building that will not require any renovation. ***For example,*** let's assume that your business purchased a ***"new"*** commercial building for use as the businesses manufacturing facility (which needs no renovation to meet the needs of your business) ***for $10 million*** and placed it in service on June 1, 2016. For tax purposes, you would be required to depreciate the building under the straight-line depreciation method over 39 years using the mid-month convention. Therefore, ***your depreciation deduction on the building for 2016 would be $138,889.***

  Alternatively, assume you decided to **1)** Buy a ***"used"*** building ***for $7 million,*** **2)** Spend an ***additional $3 million*** to renovate it to meet the manufacturing needs of your business (i.e., your total cost for the building is still $10 million), and **3)** The building is placed-in-service on June 1, 2016. In that event, the $3 million renovation cost could qualify as "*qualified improvement property"* (assuming that **all of the improvements are to the interior portion building,** the improvements are **not attributable to an enlargement** of the building, **elevators or escalators, or** the **internal structural framework** of the building). Your depreciation deduction for 2016 attributable to the initial ***$7 million*** cost ***would be $97,222*** (i.e., straight-line depreciation using a 39-year life and the mid-month convention). Assuming the ***$3 million renovation*** satisfies the new definition of *"qualified improvement property,"* the renovation would qualify for a 50% 168(k) first-year depreciation deduction of ***$1.5 million*** (i.e., $3 million x 50%). The remaining ***$1.5 million*** cost of the renovation would also generate an additional depreciation deduction for 2016 of ***$20,833*** (i.e., straight-line depreciation using a 39-year life and the mid-month convention). So, ***for 2016,*** your ***total depreciation deduction would be $1,618,055*** (i.e., $97,222 plus $1.5 million plus $20,833). This results in ***$1,479,166 more depreciation*** (i.e., $1,618,055 less $138,889) in 2016 because your business purchased an existing building and renovated it – as opposed to purchasing or constructing a new building that needed no renovation.

  Planning Alert! In each of the above examples, the taxpayer may be able to obtain additional tax benefits by conducting a *"cost segregation study."* A cost segregation study might effectively identify for tax purposes nonstructural components of the building and/or renovation costs that constitute tangible personal property that can be depreciated over a much shorter life using the 200% declining balance depreciation method. The above examples do not reflect the possible tax impact of such a cost segregation study.

Section 179 Deduction Expanded And Made Permanent. For tax years beginning in 2010 through 2014, the maximum Section 179 deduction for the cost of qualifying new or used depreciable personal property (e.g., new or used machinery and equipment, furniture and fixtures, business vehicles, computers, etc.) was temporarily increased to $500,000. During that same period, the phase-out threshold of the Section 179 deduction for qualifying Section 179 property acquisitions was temporarily increased to $2,000,000. In addition, for purchases in 2010 through 2014, taxpayers were temporarily allowed to treat up to $250,000 of *"qualified real property"* (discussed below) as Section 179 property. The PATH Act makes these *"expanded"* Section 179 provisions permanent (i.e., the $500,000 Section 179 cap; the Section 179 deduction for *"qualified real property;"* and the $2,000,000 phase-out threshold). In addition, for property placed-in-service in tax years beginning **after 2015,** the Act permanently indexes the Section 179 caps for inflation. The PATH Act also makes the following taxpayer-friendly modifications to the Section 179 deduction ***for tax years beginning after 2015.***

- **Separate $250,000 Cap For *"Qualified Real Property"* Eliminated.** For tax years beginning in 2010 through 2015, the Section 179 deduction for "*Qualified Real Property*" was capped at $250,000. For *Qualified Real Property* ***placed-in-service in tax years beginning after 2015,*** the PATH Act removes the $250,000 cap. Thus, *Qualified Real Property* is now subject to the overall Section 179 cap of $500,000 (as indexed for inflation). **Caution!** The $500,000 overall cap is reduced by any Section 179 deduction taken for *Qualified Real Property.* ***"Qualified Real Property"*** includes property within any of the following three categories: **1)** *Qualified Leasehold Improvement Property* (generally capital improvements to the interior portion of certain leased buildings that are used for nonresidential purposes); **2)** *Qualified Retail Improvement Property* (generally capital improvements made to certain buildings which are open to the general public for the retail sale of tangible personal property); and **3)** *Qualified Restaurant Property* (generally capital expenditures for the improvement, purchase, or construction of a building, if more than 50% of the building's square footage is devoted to the preparation of, and seating for, the on-premises consumption of prepared meals).

Year-End Purchases Of Qualifying 168(k) and/or Section 179 Property Offer Substantial Tax Savings. Neither the 50% 168(k) bonus depreciation deduction nor the Section 179 deduction require any proration based on the length of time that an asset is in service during the tax year. Therefore, your business would get the benefit of the ***entire 50% 168(k) deduction*** and/or the ***entire Section 179 deduction*** for 2016 purchases, even if the qualifying property ***were placed-in-service as late as December 31, 2016!***

- **"Placed-In-Service."** Generally, if you are purchasing "personal property" (equipment, computer, vehicles, etc.) – "placed-in-service" means the property is ***ready and available*** for use. To be safe, qualifying property should be ***set up and tested*** on or before the ***last day of 2016.*** If you are dealing with building improvements (e.g., qualified leasehold improvement property; qualified improvement property; non-structural components of a building), a ***certificate of occupancy*** will generally constitute placing the building improvements in service.
- **Purchase Of "Heavy" Truck Or SUV For Business Use.** 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 2016,*** the maximum first-year depreciation deduction is generally capped at $3,160 ($3,560 for trucks and vans not weighing over 6,000 lbs). ***For 2016,*** if these vehicles are "new" and otherwise qualify for the 168(k) bonus depreciation, this overall cap is increased to $11,160 ($11,560 for trucks and vans not weighing over 6,000 lbs). **Planning Alert!** 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). ***For example,*** let's assume that in 2016 you purchase and place-in-service a new "over 6,000 lbs" SUV ***for $50,000*** used ***entirely for business.*** For 2016, you could deduct: **1)** Up to $25,000 under Section 179, **2)** 50% of the

remaining balance as 168(k) bonus depreciation, and **3)** 20% of the remaining cost as regular depreciation for the first year. Thus, for a $50,000 new heavy SUV placed-in-service in 2016, you could generally write off $40,000 in 2016 (assuming 100% business use and the half-year depreciation convention applies). **Tax Tip!** Pickup trucks with loaded vehicle weights over 6,000 lbs are exempt from the $25,000 limit under §179 (imposed on SUVs) if the truck bed is at least six feet long. **Planning Alert!** If you take the Section179 deduction and/or the 50% 168(k) first-year bonus depreciation on your business vehicle, and your business use percentage later ***drops to 50% or below,*** you will generally be required to bring into income a portion of the deductions taken in previous years.

- **Planning With The Section 179 "Taxable Income Limitation."** A taxpayer's Section 179 deduction for any tax year is limited to the taxpayer's *"trade or business"* taxable income (determined without the Section 179 deduction). Any excess Section 179 deduction is carried forward to later years until the taxpayer generates enough business taxable income to fully deduct it. This *"taxable income limitation"* will not limit the taxpayer's Section 179 deduction for a specific tax year so long as the taxpayer has aggregate net income from all his trades or businesses at least equal to the Section 179 deduction for that tax year. For this purpose, an individual's *trade or business* income includes W-2 wages reported by the taxpayer or the taxpayer's spouse (if filing a joint return). ***For example,*** assume Jane is employed as an accountant with a salary of $65,000. On the side, Jane also operates a small one-person furniture refurbishing business (operating as a sole proprietorship) and expects to earn $3,000 of net revenue from the furniture business in 2016. She would like to purchase a high-end wood lathe before the end of 2016 costing $7,000 for use in her side business. Since her $65,000 salary counts for purposes of the "*taxable income limitation*," if she buys the $7,000 lathe and places it in service by December 31, 2016, she will qualify for a Section 179 deduction of $7,000 for 2016.

OTHER RECENT LEGISLATIVE CHANGES IMPACTING TAX PLANNING FOR BUSINESSES

In addition to the *PATH ACT*, other recent legislation included the following changes that could impact tax planning for businesses starting in 2016:

Revised Due Dates For Various Tax Returns. For ***tax years beginning after 2015,*** the Transportation Act revises the initial due dates and/or the extended due dates for various tax returns including: ***Form 1065*** (partnership return) and ***Form 1120*** ("C" corporation tax return). **Planning Alert!** Since these new due date provisions are effective for ***tax years beginning after 2015,*** the new deadlines ***will first apply*** to ***2016 returns*** – which are filed ***after 2016.*** The following are just a few examples of the new due dates and extended due dates provided by the Transportation Act for ***returns for tax years beginning after 2015:***

- **Partnership Returns (Form 1065).** The ***"Initial"*** due date for a ***Partnership Return*** (Form 1065) will be the 15th day of the ***"third"*** month following year-end (i.e., March 15 of the following year for a calendar- year partnership). Previously, partnership returns were due the 15th day of the ***"fourth"*** month (i.e., April 15 of the following year for a calendar-year partnership). However, the ***"Extended"*** due date for partnership returns will not change (i.e., it is the 15th day of the ninth month of the following year under both old and new law - September 15 for calendar-year partnerships).

- **Calendar-Year "C" Corporation Returns (Form 1120).** The ***"Initial"*** due date for a calendar-year "C" corporation return will be April 15 of the following year (previously the initial due date was March 15 of the following year). However, the ***"Extended"*** due date for calendar-year "C" corporation returns will be September 15 of the following year which is the same as the extended due date for calendar-year C corporation returns under prior law.

- **Due Dates For "S" Corporation Returns Remain Unchanged (Form 1120S).** The Transportation Act does not change the initial due date or the extended due date for "S" corporation tax returns.

- **W-2s And 1099s.** In order to cut down on identity theft, for ***information returns filed after 2016*** (e.g., 2016 forms filed in 2017), the PATH Act requires Forms W-2, W-2AS, W-2CM, W-2GU, W-2VI, W-3 and W-3SS to be filed with the Social Security Administration (SSA) ***by January 31*** (i.e., the same date these forms are due to be filed with the recipient of the compensation). **Caution!** In addition, there is no longer an extended filing date for forms filed electronically. Furthermore, ***extensions of time to file Forms W-2*** with the SSA ***are no longer automatic.*** For filings due on or after January 1, 2017, employers may ***request one 30-day extension to file Form W-2*** by submitting a complete application to the IRS ***on Form 8809,*** including a detailed explanation of why additional time is needed. The instructions to Forms W-2 and W-3 say that an extension will only be granted ***in extraordinary circumstances or catastrophe.***

  The Act also provides that ***Forms 1099-MISC which report nonemployee compensation*** must be filed with the IRS ***on or before January 31*** of the following year beginning with 2016 Forms 1099-MISC whether or not the forms are filed electronically. If the Form 1099-MISC does not show nonemployee compensation in Box 7, the Form continues to be due with the IRS by February 28th of the following year or by March 31st of the following year if filed electronically.

Failure To Timely File Certain "Information" Returns Has Become More Costly. Effective for returns ***required to be filed after 2015,*** the Trade Act significantly increases the monetary penalties for failing to file certain information returns (e.g., the Form 1099 series, and the new Affordable Care Act Forms 1095-B and 1095-C). For example, the penalty for failing to file a Form 1099 with the payee is increased from $100 in 2014 to $260 for 2016 (as indexed for inflation) for each Form 1099. In addition, the failure to file a Form 1099 with the IRS is also increased from $100 to $260 for 2016. Therefore, failure to file a 2016 Form 1099 ***required to be filed in 2017*** with both the payee and the IRS would generally trigger a total ***penalty of $520*** ($260 for failing to file with the payee, plus $260 for failing to file with the IRS).

SELECTED TRADITIONAL YEAR-END PLANNING CONSIDERATIONS FOR BUSINESSES

Salaries For S Corporation Shareholder/Employees. For 2016, an employer generally must pay FICA taxes of 7.65% on an employee's wages up to $118,500 and FICA taxes of 1.45% on wages in excess of $118,500. In addition, an employer must withhold FICA taxes from an employee's wages of 7.65% on wages up to $118,500 and 1.45% of wages in excess of $118,500. Generally, the employer must also withhold an additional Medicare tax of .9% for wages paid to an employee in excess of $200,000. If you are a stockholder/employee of an S corporation, this FICA tax is generally applied only to your W-2 income from your S corporation. However, other income that passes through to you or is distributed with respect to your stock is generally not subject to FICA taxes or to self-employment taxes. **Planning**

Alert! If the IRS determines that you have taken unreasonably "low" compensation from your S corporation, the Service will generally argue that other amounts you have received from your S corporation (e.g., distributions) are disguised "compensation" and should be subject to FICA taxes. Determining "reasonable compensation" for S corporation shareholder/employees is a hot audit issue, and the IRS has a winning record in the Courts. **Caution!** Determining "reasonable" compensation for an S corporation shareholder is a case-by-case determination, and there are no rules of thumb for determining whether the compensation is "reasonable." However, recent Court decisions make it clear that the compensation of S corporation shareholders should be supported by independent data (e.g., comparable industry compensation studies), and should be properly documented and approved by the corporation.

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.***

Employers Sponsoring "Health Reimbursement Arrangements" Or "Employer Payment Plans" May Be At Risk. 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. The IRS defines an ***"HRA"*** as an arrangement (funded solely by an employer) that reimburses an employee for qualified medical 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 where 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 one or more shareholder/employees who own more- than-2% of the S corporation – ***until the IRS announces otherwise.*** As we finalize this letter, the IRS ***has made no announcement*** changing this exemption for more-than-2% S corporation shareholders.

- **Planning Alert!** In order for the payments by the S corporation to the more-than-2% shareholder to qualify for this exemption, the premiums **1)** Should be reimbursed or paid by the S corporation by ***December 31, 2016,*** and **2)** 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.

Establishing A New Retirement Plan For 2016. Calendar-year taxpayers wishing to establish a qualified retirement plan for 2016 (e.g. profit-sharing, 401(k), or defined benefit plan) *generally* must adopt the plan ***no later than December 31, 2016.*** 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, 2016.***

Self-Employed Business Income. If you are self-employed, it continues to be a good idea to defer income ***into 2017*** if you believe that your marginal tax rate for 2017 (including the new .9% Additional Medicare Tax and the 3.8% tax on Net Investment Income) will be equal to or less than your 2016 marginal tax rate. If deferring 2016 income to 2017 will save you overall taxes, and you use the cash method of accounting, consider delaying year-end billings until 2017. **Planning Alert!** If you have already received the check in 2016, 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.

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 of the 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.