

DO YOU KNOW WHY YOU SHOULD PLAN FOR YOUR INCOME TAXES?

By Toni Porter, CPA, MST, AEP

During the past several years, legislation has made many changes in the federal tax law. It has become more important to analyze personal and business tax issues and determine if there are strategies that might assist you in managing income taxes. Most effective approaches to planning must be implemented prior to the end of the taxpayer's year end so it is important to initiate them in a timely manner.

Timing your income and deductions

When reviewing your tax picture, it is more important than ever to determine whether you may be subject to the alternative minimum tax (AMT). This tax system was originated to affect wealthy taxpayers but, more recently, many more taxpayers have been caught up in this potential tax trap. AMT makes the timing of income and expenses much more critical and the planning for this timing more difficult. The absolute recommendation of accelerating expenses and postponing income is not always preferable in today's tax environment.

Some of the items that can trigger AMT are:

- A large deduction for state income taxes
- A more-than-average number of dependency exemptions
- A large capital gain
- Unreimbursed employee business expenses or miscellaneous deductions
- Mortgage interest on loans not originating from buying, building, or improving a personal residence

The timing of some income or expenses can be controlled to minimize the effects of the AMT tax.

AMT is not the only tax issue that this timing of income and deductions can affect. It can affect the regular income tax bracket to which the taxpayer may be subject, income taxes on Social Security benefits, deductions limited by Adjusted Gross Income, etc. All of the possible alternatives must be weighed to provide a taxpayer with the greatest overall tax savings.

Unique planning for farmers

Farmers, as with any other type of business, may deduct their ordinary and necessary busi-

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ness expenses. However, there are a number of unique tax provisions and considerations that apply only to the business of farming. These tax provisions arise from a variety of special considerations, including federal subsidy programs, special inventory needs, and the family nature of many farming businesses. A comprehensive tax plan can help you navigate the rules that affect the reporting of income and expenses and ultimately may reduce a farmer's tax burden.

For example, government payments are generally included in farm income; however, there are exceptions for cost-sharing payments for conservation, reclamation and restoration programs. Further, although individual farmers can request that income tax be withheld on those payments, it may not be advisable to do so because deferral of taxes until 2½ months after the close of the tax year is a valuable tax benefit. Farmers also have control over when

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income from Commodity Credit Corporation Loans is reported, which may permit the farmer to recognize income in the year the related production expenses are deducted. In addition, costs incurred for soil or water conservation or to prevent erosion are deductible by farmers even though they are capital expenditures. To complicate tax matters further, a farmer may elect to average their income over three years to compensate for the sometimes erratic nature of the farming business.

Tax planning for farmers therefore requires a more in-depth discussion than other businesses in order to develop a greater understanding of their needs. Regardless of their unique challenges and goals, tax savings should always be a priority.

Farm Act - tax relief and reforms

The Food Conservation, and Energy Act of 2008 (2008 Farm Act) makes sweeping changes in farm tax relief and reform. Among its numerous provisions, the 2008 Farm Act creates a permanent agricultural disaster assistance trust fund, reforms tax provisions related to ethanol and alcohol fuel production, provides government assistance to spur the commercial viability of cellulosic biofuels, and makes changes to agricultural tax-exempt bonds, self

employment taxes, depreciation for race horses and tax-free exchanges of water rights.

At the heart of the 2008 Farm Act are changes that benefit the small farmer, such as the provision that modifies the farm optional method allowing farmers and ranchers to pay more in optional self-employment taxes so they may be eligible to secure Social Security benefits. Also, there are new information reporting requirements for the Commodity Credit Corporation (CCC), an increase in loan limits for an individual beginner farmer referred to as Aggie Bonds, and tax relief for retired and disabled farmers that prevents Conservation Reserve Program (CRP) payments from reducing Social Security or disability payments, and also exempts the CRP income from self-employment taxes. At the same time that the 2008 Farm Act provides relief to small farmers, it addresses taxpayers who use complex farming operations to reduce income subject to tax, by limiting the amount of farming losses a taxpayer may use to reduce other non-farming business.

The 2008 Farm Act has a major impact on the taxation and incentives for the agricultural industry. The provisions of this act and all other tax provisions should be considered when tax planning for this and future years.

FASB ISSUES NEW INTERPRETATION RELATED TO TAX POSITIONS

by Janell Attebery, Susan Hornor, & Susan Woods, CPA

The Financial Accounting Standards Board (FASB) has issued a new interpretation, FIN 48 Accounting for Uncertain Tax Positions, for nonpublic entities. FIN 48 requires companies that prepare financial statements to review their federal and state tax positions and determine whether the positions would withstand a challenge by the IRS or a state tax authority. FIN 48 applies to private companies that are

subject to income taxes, not-for-profit entities that have unrelated business income taxes, S corporations that converted from C corporation status, and other special tax-paying entities. FIN 48 is effective for entities with fiscal years beginning after December 15, 2007.

A company's decision about how to recognize income tax events in past, current, or future

years are termed tax positions. The company recognizes the benefit of a tax position in its financial statements when the degree of confidence is high that the tax position will be sustained upon examination by a taxing authority. However, tax law is subject to interpretation and there could be uncertainty with regard to the validity of a tax position. Before FIN 48, there was no specific guidance on how to address this uncertainty which resulted in non-comparability in reporting the assets and liabilities related to income tax.

FIN 48 requires companies that prepare financial statements to review their federal and state tax positions and determine whether the positions would withstand a challenge by the IRS or a state tax authority.

FIN 48 defines criteria that an individual tax position must meet before that position can be recognized in a company's financial statements and provides consistent methods that should be used to measure benefits related to income taxes. FIN 48 imposes a two-step process to determine when to recognize the benefit of a tax position in the financial statement.

- 1) FIN 48 requires a presumption that the uncertain tax position will be audited by a tax examiner. A tax position may not be recognized in the financial statements unless there is a greater than 50% chance it will be sustained during a tax audit based solely on the technical merits of the position.
- 2) The tax benefit must be measured for tax positions that meet the 50% requirement of being sustained under audit to deter-

mine the amount of tax benefit that can be recorded in the financial statements.

This applies to positions that have been taken on previously filed tax returns and positions expected to be taken on the current year tax return. If positions taken on previously filed tax returns do not meet the more likely than not threshold, the result may be an adjustment to income tax assets or liabilities. The number of years of previously filed returns to be considered under FIN 48 is limited based on the statute of limitations related to income tax returns, and varies based on the applicable taxing authority and other issues.

Differences between tax positions taken and amounts recognized in the financial statements will generally result in one of the following:

- a) An increase of income taxes payable or a reduction of income tax refunds
- b) A reduction of deferred tax asset or an increase of deferred tax liabilities
- c) Both (a) and (b)

The most significant part of FIN 48 is the enhanced disclosure requirements, which include a description of the tax years considered, and the overall dollar value of changes to unrecognized tax benefits reflected in the financial statements. While some feel this may provide an "audit roadmap" for the taxing authority, the stated disclosures will only provide a cumulative total of all uncertain tax positions. Taxing authorities will not be able to identify specific tax positions to audit.

The adoption of FIN 48 will require entities to take a fresh look at their tax positions. It will take effort to document and monitor these tax positions; however, this process will help prepare companies for any potential tax audits.



CALIFORNIA TAX CHANGES

By Dennis Veeh, CPA

After numerous months of negotiations, the California legislature and the governor finally came to agreement on a compromise budget. The governor signed the budget on September 23. The new budget contains several tax-related changes which accelerate income, disallow certain credits and net operating losses, and increase corporate penalties. The following summarizes the major provisions:

LLC FEES – Limited Liability Companies are now required to accelerate the payment of their gross receipts fee. Calendar year LLCs must pay their 2008 fee on April 15, 2009 and their 2009 estimated fee on June 15, 2009.

ESTIMATED TAX PAYMENTS – Individuals and corporations are now required to increase the amount of their first two estimated tax payments for 2009 from 25% of the estimated tax to 30%. The last two estimated tax payments will be reduced to 20%. Additionally, individual taxpayers with income over \$1 million will no longer be able to use the 110% of prior year tax as a safe harbor in 2009 when calculating their estimated tax payments. These taxpayers will need to pay in at least 90% of their tax in order to avoid an underpayment penalty. Individual taxpayers with an estimated tax payment or extension payment in excess of \$20,000 or with total tax liability in excess of \$80,000 in any year must remit their tax payments electronically to the FTB beginning in 2009.

NET OPERATING LOSSES (NOL) – The NOL deduction is suspended for taxable years beginning in 2008 and 2009, with an exception for “small” businesses. The definition of a small business is net business income of less than \$500,000. NOLs generated in 2008 and after are allowed to be carried over 20 years. NOLs that were not allowed to be used in 2008 and 2009, resulting from the suspension, are allowed an additional year to the carryforward period for each year that the loss was unusable. NOLs generated in 2011 and later can be carried back two years, in lieu of being carried forward, with certain limitations.

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BUSINESS TAX CREDITS – Business tax credits are limited to 50% of the tax in 2008 and 2009, with the exception of a small business, as defined above under NOLs. Any credit that is limited by this change can be carried over to the subsequent year, if a carryover is otherwise available.

CORPORATE PENALTY – There is a new corporate penalty equal to 20% of the understated tax if the understated tax is more than \$1 million. This penalty is applicable to tax years 2003 and after.

Individual taxpayers with an estimated tax payment or extension payment in excess of \$20,000 or with total tax liability in excess of \$80,000 in any year must remit their tax payments electronically to the FTB beginning in 2009.



HARRIS FARMS IS 2008 BP&F AG BUSINESS AWARD RECIPIENT

Baker, Peterson & Franklin, Certified Public Accountants, is pleased to announce the recipient of the 2008 Baker, Peterson & Franklin Ag Business Award is Harris Farms, Inc. of Coalinga.

Harris Farms exemplifies a leading for-profit ag organization whose achievements and impact have significantly contributed to the ag industry and the Central Valley. The Baker, Peterson & Franklin Ag Business Award honors a for-profit service or product-related agribusiness or farming entity headquartered in the Central San Joaquin Valley. The award recipient is selected by a committee representing the local agribusiness industry and the BP&F Ag Department. The past 12 recipients are: Borba Farms



of Riverdale, National Raisin Co. of Fowler, Ballantine Produce Co. of Sanger, Woolf Enterprises of Fresno, Producers Dairy Foods of Fresno, P-R Farms of Clovis, J&L Vineyards of Fresno, Fowler Packing Company, Joseph Gallo Farms of Atwater, Wawona Frozen Foods of Clovis, Wilbur-Ellis Western Division, and Zacky Farms of Fresno.

Founded in 1937 by Jack and Teresa Harris on 320 acres of Fresno County westside desert, Harris Farms has grown into one of the most vertically integrated, diversified, and largest agribusinesses in the U.S. Today under John

and Carole Harris, the ranch operation produces 33 crops including lettuce, tomatoes, garlic, onions, citrus, nuts, and grapes. Harris Ranch Beef and Harris Feeding companies have earned a reputation as two of the largest and most innovative firms in the industry, pioneering the development of branded beef and value-added beef products. Their horse division breeds, trains and races thoroughbred horses at tracks across the country. The Harris Ranch Inn & Restaurant serves 2,000 guests a day, and showcases their beef products and produce. Harris Farms is one of the largest employers in the Coalinga area with 1,500 employees.

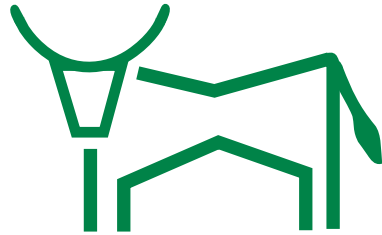
Harris Farms received the 2002 Fresno Bee Excellence in Business Award. John Harris has been recognized by his peers with State Fair Agriculturist of the Year, Livestock Man of the Year, and Cattle Businessman of the Year. He serves on the California Horseracing Board, Western Growers Board, and was President of the American Cattleman Association. He is past chair of the Saint Agnes Hospital Foundation Board and a past member of the UC Davis Foundation and Alumni Boards. Carole is a member of La Feliz Hospital Guild and a past member of the Fresno

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County Historical Society Board. John and Carole donate generously to countless charitable organizations, and annually award scholarships to children of employees.

Harris Farms has a long and distinguished record of positive leadership, entrepreneurship, and service to the agriculture industry and our community, making them the 2008 Baker, Peterson & Franklin Ag Business Award recipient.



2008 AG AWARD LUNCHEON

Honoring Harris Farms & Jerry Prieto, Jr.

Harris Farms will be honored at the Ag Awards Luncheon on Wednesday, November 5, 11:30 – 12:00 check in & wine tasting, 12:00 – 1:30 p.m. luncheon & program, at the Radisson Conference Center in Fresno. The Baker, Peterson & Franklin Ag Business Award and the Fresno Chamber Agriculturist of the Year, Jerry Prieto (retired Fresno County Ag Commissioner), will both be presented. Luncheon tickets at \$40 are available through the Greater Fresno Chamber of Commerce, (559) 495-4800.



PROPOSED WILLIAMSON ACT CHANGES

The Fresno County Board of Supervisors will hold a public hearing on October 28 at 2 p.m. at the Fresno County Hall of Records, 2281 Tulare Street, #301, to discuss possible revisions to the Williamson Act contract parcel sizes.

The hearing will focus on revising the minimum parcel size for commercial farming operations on nonprime agricultural land restricted under a Williamson Act contract. Non-prime agricultural land is generally classified as all non-irrigated land east of the Friant-Kern Canal or west of Interstate 5. Currently, the minimum parcel size for non-prime farmland to participate in the Williamson Act program is 40 acres. Based on the recommendation provided by the Fresno County Agricultural Lands Conservation Committee, the Board of Supervisors will consider increasing the minimum size to 160 acres on the east side of the county and 320 acres on the west side.

For further information on the proposal, contact Chris Motta, of the Fresno County Department of Public Works and Planning, Development Services Division, 2220 Tulare Street, Suite B, Fresno, CA 93721, (559) 262-4022.

TAX TIDBIT

For property placed in service after 2008 and before 2010, the Emergency Economic Stabilization Act of 2008 provides a five-year recovery period for any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business and the original use of which commences with the taxpayer.

STAFF NEWS

Kiersten Alvarado joined the firm in 2007, and is a Senior II Accountant in the Accounting & Assurance Department. She is a new member of BP&F's Ag Department. Prior to joining the firm, she worked four years at local accounting firms providing auditing and litigation support for agribusinesses. Kiersten's experience includes financial statement audits and reviews, and a wide range of consulting services—litigation support, forensic accounting, family business, work outs, forecasting and operational reviews. She has provided these accounting services for tree fruit, row crops, citrus, dairy, packers, produce marketing and ginning. "Since I grew up in a farm family, I like helping farmers make educated business decisions. I enjoy serving our clients, and providing solutions to their problems," she states.

Kiersten is a graduate of California State University, Fresno, with a Bachelor of Science degree in Business Administration and emphasis in accounting. With multi-generational roots in the Cutler-Orosi area, Kiersten's family farmed and packed stone fruit. Kiersten serves on the Ag One/CWA Ag Boosters BBQ Committee, and is the Susan G. Komen Race for the Cure Course Chair. She and her husband, Sly, reside in Clovis.



Janell Attebery joined the firm in 2003, and is a Manager in the Accounting & Assurance Department. She has eight years of public accounting experience, with two of those years at Ernst & Young in San Jose focusing on research tax credits in their tax consulting division. Janell is a new member of the firm's Ag Department and also chairs the firm's Recruiting Committee. Her experience includes performing and managing audits of agricultural entities, reviews, compilations, and conducting research tax credit studies. She has done audits for dairies, cheese processing, processors (tomatoes, almonds, herbs), row crops, citrus, and pistachios. Janell says, "I enjoy working with ag clients—there are always challenging issues, especially in today's ever-changing economy. The ability to draw upon my background gives me the unique insight and personal connection to those issues, and hopefully, rewarding solutions for my clients."

She is a graduate of California State University, Fresno, with a Bachelor of Science degree in Business Administration and emphasis in accounting. Janell grew up on the family dairy and farming operation in Chowchilla. She was very active in Chowchilla's FFA and raised swine. Her husband, Aaron, is a grower accountant for an almond processing operation near Caruthers. They have a 14-month-old son, Talan, and reside in Fresno.



CALENDAR

- October 17** 11th Annual College of Agricultural Sciences and Technology Alumni and Friends Wine Tasting, Fresno State Winery. For reservation information, call (559) 278-4266.
- October 25** Fall Wine Cornucopia 2008, Chukchansi Park. For ticket information call (559) 618-1856 or visit www.idrinkwine.net.
- November 5** 2008 Agriculturalist of the Year and Ag Business of the Year Awards Luncheon, Radisson Conference Center. For more information, please call (559) 495-4800.
- November 27 & 28** BP&F office closed for holiday.
- December 4 & 5** Sixth Annual San Joaquin Valley Wine and Grape Industry Forum, Pardini's. For information, call (559) 354-1409.
- December 25 & 26** BP&F office closed for holiday.

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