Anchin Advantage

Dedicated to Helping You Grow Your Business
Anchin, Block & Anchin LLP
Accountants & Advisors

Vol 10, No. 1, 1Q 2008

Businesses Can Benefit from Stimulus Package

Chances are you have heard countless news reports about the Economic Stimulus Package Act of 2008 and its plan to put money in the hands of middle-income Americans. However, a closer look at the Act reveals two significant business tax breaks in the form of bigger depreciation write-offs.

continued on page 2

Interest Rates Reduced for Energy Efficiency Projects

Individuals and businesses across New York may be eligible for subsidized loans for energy efficiency projects and renewable technologies, thanks to the **New York Energy $mart**℠ Loan Fund. A network of participating lenders—including banks, credit unions, and community development financial institutions —can provide you with a low-cost loan through this program.

continued on page 3

Accounting for Income Taxes: Pinning Down Your Tax Position

Here's a fairly common scenario: Your business operates and maintains offices in one state only, yet you have sales reps in multiple states. At year-end, you file corporate income taxes only in the state in which you are physically located.

continued on page 4

Anchin named "Best Place to Work" in New York State

Anchin is proud to be named one of the 30 Best Companies to work for in New York for 2008. The New York State Society of Human Resource Management (SHRM) and Best Companies Group, an independent company managing Best Places to Work programs in states around the country, formed a partnership to launch the program in New York.

continued on page 2

Stimulus Package *(continued from page 1)*

Business owners may want to plan their major equipment and other fixed asset purchases for 2008 in order to maximize benefits granted in the Economic Stimulus Package. Your Anchin relationship partner is currently reviewing how this new Act can reduce your taxes.

Sec. 179 Expense Deduction Election

The Economic Stimulus Act almost doubles the maximum Section 179 deduction, but only for the 2008 tax year. To spur additional investment, the Act increases the limit for the initial year expense deduction to $250,000 (up from $128,000). The Sec. 179 expense deduction election allows a current deduction for newly acquired assets that otherwise would have to be depreciated over a number of years.

This increase in the expensing election creates planning issues for the business owner. Any 2008 and 2009 planned purchases of major capital assets should be reviewed now in order to maximize this benefit. Because this tax break is designed to benefit primarily smaller businesses, the expensing election begins to phase out dollar for dollar when total asset acquisitions for the year exceed $800,000 (up from $510,000). The new higher limit applies for calendar year 2008 or a business's fiscal year that begins in 2008. For 2009 to 2010, the maximum deductions will revert to 2007 levels (plus inflation adjustments) unless Congress takes further action to extend these higher amounts.

As in the past, a business can claim the expensing election currently only to offset its net income, not to reduce net income below zero.

> **"The new law creates a real tax-saving windfall for small and medium-sized businesses."**

Bonus Depreciation

Another valuable provision of the Act offers an additional 50% depreciation allowance for certain property separate from the Sec. 179 expense deduction if the asset is acquired and placed into service in 2008. Most equipment qualifies, but long-term assets with useful lives over 20 years are excluded.

Also of primary importance to the business owner is the fact that this bonus depreciation allowance is allowed for Alternative Minimum Tax purposes.

The new law creates a real tax-saving windfall for small and medium-sized businesses that can take advantage of both the expanded Sec. 179 deduction privilege and the 50% first-year bonus depreciation. Because both the Sec. 179 limit increases and the 50% depreciation allowance can provide large 2008 deductions, you may want to consider making major asset purchases this year. That is, in effect, the exact purpose of the legislation – to boost the U.S. economy by providing tax incentives that will spur large purchases.

Passenger Vehicles

In addition, passenger vehicles used for business purposes can qualify for the bonus depreciation. The first-year depreciation limit for passenger autos increased for 2008 by $8,000 (making the limit approximately $11,000).

The provisions of the Stimulus Package Act provide a prime opportunity for proactive tax planning on behalf of the business owner. As always with tax law change, the provisions are complex so discuss your particular situation with your Anchin relationship partner.

Best Place to Work *(continued from page 1)*

To be considered for the "best place to work" honor, Anchin was evaluated in a number of areas, including workplace policies, practices, philosophy, systems and demographics. In addition, employees completed an on-line survey designed to measure the employee experience.

"These honors are not the result of 'luck' or coincidence," according to Managing Partner Frank A. Schettino. "Instead, they are the result of dedicated efforts identified in the Firm's Strategic Plan implemented through new initiatives in recent years. Those initiatives have included the development of improved performance feedback, upgraded mentoring and coaching programs, an expanded recruiting program, an improved orientation for new hires, the creation of Anchin University (for internal training) and the establishment of the Care Committee, which plans a growing number of charitable and social events.

"We believe this recognition will be valued by our clients as well as our own team members. Professionals who are happy and fulfilled in their work provide the best service possible to our clients and remain with the Firm.

"Anchin has always prided itself on the fact that many of our partners joined the Firm upon their college graduation and have spent their entire professional career here," Schettino said. "We are honored to receive this recognition and promise that we will continue to work hard in the coming months and years so that Anchin remains one of the 'best' on all fronts."

Energy Efficiency *(continued from page 1)*

The **New York Energy $mart℠** Loan Fund program is offered for the purpose of providing an interest rate reduction off a participating lender's normal loan interest rate for a term up to 10 years on loans for certain energy-efficiency improvements and/or renewable technologies. The interest rate reduction for most of the state is up to 4.0% (400 basis points). Con Edison customers may be eligible to receive an interest rate reduction up to 6.5% (650 basis points) less than a Participating Lender's or Lessor's normal market rate.

You may qualify for the **New York Energy $mart℠** Loan Fund program if your utilities are provided by Central Hudson Gas & Electric Corp., New York State Electric & Gas Corporation, National Grid, Rochester Gas and Electric Corporation, Orange and Rockland Utilities Inc., or Consolidated Edison (ConEd) Company of New York, Inc.

If your utilities provider is part of the program, you then must be approved for financing through a lending institution (i,e., bank, credit union) or leasing company that participates in the program. A list of participating lenders is available at www.nyserda.org or by calling David Meade, project manager with Anchin's Economic Development Services Team, at 212.840.3456.

In an effort to increase the number of participating lenders in the program, The New York State Energy Research and Development Authority (NYSERDA) has selected Anchin's Economic Development Services Team to recruit, train and support financial institutions across the state in their use of the **New York Energy $mart℠** Loan Fund.

Following is a brief look at the benefits available to individuals and businesses from the **Energy Smart™** Loan Fund:

Commercial borrowers

Commercial buildings, which include commercial, industrial, institutional, governmental, agricultural, health-care and non-profit sectors, can qualify for reduced interest rates on loans to improve manufacturing facilities, business offices, retail storefronts, or manufacturing processes. New commercial buildings which have been evaluated through the **New York Energy $mart℠** New Construction Program or qualify for Enhanced Commercial/Industrial Performance Program Tier I incentives may also qualify for the Loan Fund. The maximum loan amount that may be subsidized for commercial properties is $1,000,000 plus an additional $500,000 for Green Building Improvements for a total maximum of $1,500,000.

> **"The interest rate reduction for most of the state is up to 4.0%."**

Owners of existing Multifamily Buildings can qualify for reduced interest rates on loans to improve existing multifamily buildings (five or more residential units). The maximum loan amount that may be subsidized under this program for existing multifamily buildings is $5,000 per residential unit, up to $2,500,000, plus an additional $2,500,000 for projects that include advanced meters coupled with a variable electricity rate structure that encourages shifting electric load to off-peak periods for the purpose of attaining electricity peak-load reduction, for a total maximum of $5,000,000.

To qualify for the Loan Fund, all existing multifamily buildings must receive a technical analysis from NYSERDA's Multifamily Performance Program (MPP) or another NYSERDA technical assistance program, or have submitted and be approved under a NYSERDA solicitation.

Residential borrowers

Owners of existing 1-4 family homes may borrow up to $7,500 for reduced interest rates on loans up to $20,000 ($30,000 for Con Edison customers) used to finance certain energy-efficient improvements which have been pre-qualified by NYSERDA. Most improvements must be installed by a Building Performance Institute (BPI) - Accredited Home Performance Contractor with the exception of loans for the purchase of ENERGY STAR® Appliances. Improvements may be financed by loans obtained on a secured or unsecured basis.

New Construction Multifamily Buildings which have been evaluated through the **New York Energy $mart℠** New Construction Program may also qualify for the Loan Fund. The maximum loan amount that may be subsidized for new construction multifamily buildings is $1,000,000 plus an additional $500,000 for Green Building Improvements, for a total maximum of $1,500,000.

For further information about the Loan Fund program or to schedule training, contact David Meade, project manager, by phone at 212.840.3456 or by email at david.meade@anchin.com.

NYSERDA was established by law in I975 as a public benefit corporation. NYSERDA provides energy-related technical and financial packaging assistance to businesses and institutions to promote energy efficiency and economic development, as well as providing energy research and development programs that promote safe and economical energy production efficiency technologies in New York State. Since 1998, the **New York Energy $mart℠** program, administered by NYSERDA, offers a wide range of consumer education and assistance programs to bring energy efficiency to homes, businesses and industry.

Your Tax Position *(continued from page 1)*

Perhaps your business maintains its headquarters in only one state, but you actively solicit business and deliver products and services in multiple states. At year-end, you file corporate income taxes only in the state in which your headquarters are located.

In both of these instances, you may have taken an income tax position that will require further evaluation and possible disclosure under new financial accounting rules.

That's because new accounting guidance that takes effect for years beginning after December 15, 2006 for public companies and December 15, 2007 for non-public entities will have a significant impact on the way you treat income taxes on your financial statements. Financial Accounting Standards Board (FASB) Interpretation No. 48, Accounting for Uncertainty in Income Taxes (FIN 48) dramatically changes the rules for calculating and disclosing reserves for income tax contingencies or exposure.

If your organization prepares its financial statements in accordance with generally accepted accounting principles (GAAP), you'll need to review all of your tax positions — state, federal, and even foreign — with your Anchin advisor to identify and quantify any necessary disclosures that may be required because of these new rules.

FIN 48 isn't just for big corporations. True, public companies are required to prepare their SEC filings in accordance with GAAP. But many closely held companies and not-for-profit organizations also prepare GAAP financial statements for bankers, investors, donors or other interested parties.

Organizations account for tax contingencies — that is, the possibility that the IRS or another taxing authority will deny a tax benefit — by setting up reserves in their financial statements. In the past, calculating this tax exposure often involved more art than science. Organizations and their accountants made a judgment call to estimate a reasonable tax contingency, which may be lumped in with general reserves established to cover other potential liabilities.

In recent years, however, the FASB has attempted to introduce more science into the process. Now, under FIN 48, you're required to set up specific tax reserves and to follow rigorous procedures for quantifying tax contingencies.

Consult your Anchin advisor to discuss the potential impact of FIN 48 on your financial statements and tax strategies. That discussion should include a review of all the states and foreign countries in which you do business (no matter how remote) and your positions taken (e.g. file a return or not and the methodology you have used to determine this position). Your Anchin advisor can help you determine whether you may have any tax exposure in those jurisdictions.

That discussion should also include a review of any uncertain or aggressive positions on your income tax returns and the likelihood of success based on its technical merits. In making this determination, the possibility that the company will not be audited or that the position will escape an auditor's notice cannot be taken into account. Risks include expansive claims of business service on your company's website ("We serve businesses in every state of the country…"), research and development tax credits, and the personal use of company vehicles.

Anchin can assist you in a number of ways with Fin 48 compliance, including:

- An inventory of all uncertain tax positions in all jurisdictions (federal, state and international);
- Determination of your tax position: whether it is "more likely than not" sustainable based solely on its technical merits and the maximum amount that is more likely than not sustainable, in each uncertain tax position; and the
- Preparation of draft footnote disclosures, including the reconciliation of beginning and ending amount of unrecognized tax benefits.

For further information about FIN 48 services provided by Anchin, contact your Anchin relationship partner or Peter Baum at 212.840.3456.

Anchin Advantage, **Vol. 10, No.1, 1st Quarter 2008 Copyright © 2098 Anchin Block & Anchin LLP The** Anchin Advantage **is published quarterly by Anchin, Block & Anchin LLP, Accountants & Advisors. A service for clients, business associates and staff, the** Advantage **contains articles which are general in nature and based on sources which are believed to be authoritative. Specific applications would require consideration of all facts and circumstances by qualified professionals. The firm will be pleased to provide additional details upon request. No part of this newsletter may be reproduced or utilized in any form or by any means without written permission from Anchin, Block & Anchin LLP.**

U.S. Treasury Circular 230 Disclosure: If any tax advice is contained in this communication or attachments, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax related penalties under federal, state, or local law, or (ii) promoting, marketing or recommending to another party any matters addressed herein.

Anchin, Block & Anchin LLP
Accountants & Advisors

1375 Broadway, New York, NY 10018
Long Island ▪ Westchester

212 840-3456
www.anchin.com

Anchin Advantage:
Wealth Preservation for Future Generations

Information from Anchin, Block & Anchin LLP
Trusts and Estates Services Team
Accountants & Advisors

Vol.1 1Q 2008

To Reduce Swelling Taxes, Apply HEET

By Mela Garber

If you're affluent, charitably inclined, and would like to provide for the educational and medical needs of your children and future generations, consider using a health and education exclusion trust (HEET). A HEET can be a powerful tax-saving tool, especially for grandparents who want to share their wealth with their grandchildren without triggering harsh generation-skipping taxes (GST).

To avoid GST, a HEET must have a "significant" charitable beneficiary. But if you plan to give to charity anyway, a HEET is one of the most tax-efficient ways you can achieve your philanthropic goals while preserving assets for your loved ones.

A Deadly Tax

The GST is a flat tax (currently 45%) on gifts that skip a generation. These include gifts to your grandchildren or to other family members who are at least two generations removed. They also include gifts to unrelated persons who are more than 37½ years younger than you, i.e. a "skip" person, according to tax law.

The GST tax applies to three types of transfers:

1. A "direct skip" — that is, an outright gift to a grandchild or other "skip" person;
2. A "taxable termination," in which the last non-skip interest in a trust terminates, leaving only skip persons as beneficiaries; and
3. A taxable distribution from a trust to a skip person.

One reason the GST is so dangerous is that it applies in addition to ordinary estate and gift taxes, creating a deadly combination that can quickly eat away significant amounts of wealth. Thankfully, the GST exemption allows you to give up to $2 million in total to your grandchildren or other skip persons GST-free (increasing to $3.5 million in 2009). But if your assets are worth substantially more than the exemption amount, extra preventive measures may be needed.

HEET Protection

A HEET is a type of dynasty trust designed to benefit your children, grandchildren, and generations to come. Contributions to the trust are subject to gift tax, but you can minimize or even eliminate the tax by taking advantage of your lifetime exemption (currently $1 million) and your annual gift tax exclusion (currently $12,000 per recipient per year; $24,000 for gifts by a married couple). A HEET may also be the remainder beneficiary of a Grantor Retained Annuity Trust or a Charitable Lead Trust. The advantage of this technique is that GRATs and CLTs can be set up with little or no gift tax. Even if some or all of your contributions are taxable, however, the gift tax liability will likely be outweighed by the GST savings.

A HEET protects you against GST in two ways. First, by naming a significant charitable beneficiary, you avoid a taxable termination by ensuring that the trust always has at least one non-skip beneficiary. There's no hard-and-fast rule about what makes a charitable beneficiary "significant," but a good rule of thumb is that the charity should receive at least 10% of the trust's income or principal each year. You can choose any qualified charity, including your own private foundation.

The second way a HEET protects your assets against GST is by limiting distributions to payments of your beneficiaries' qualifying educational and medical expenses. So long as the trust pays these expenses in cash directly to the educational institution or health care provider (as opposed to reimbursing the beneficiary), the distributions are tax-free.

Eligible educational expenses include tuition — but not room and board, books, or supplies — at any qualifying educational institution from nursery school through graduate school.

HEETs can also be used to pay for most unreimbursed medical and den-

tal expenses (other than elective/cosmetic procedures), including health insurance premiums and health care-related transportation costs.

HEET vs. 529
A HEET is not a substitute for a Section 529 college savings plan, which offers tax-free withdrawals for college and graduate school expenses, including room and board, books, and supplies. A HEET's earnings are subject to income taxes and distributions can only be used for tuition. But if you've already funded 529 plans for your grandchildren, a HEET can be a great way to provide unlimited funds for their tuition at all educational levels as well as for their health care needs.

A Flexible Tool
A HEET can be a very flexible investment tool. There's no limit on contributions and you can fund a HEET with virtually any type of asset so long as the trust has the ability to pay providers in cash. If you set up a HEET during your lifetime, you can structure it as a "grantor trust," which means that you pay income taxes on the trust's earnings. Your tax payments allow the trust assets to grow tax-free and are not considered taxable gifts to the beneficiaries, preserving more of your wealth for your family.

In order to achieve multi-generational objectives, a HEET should be formed in a state that has eliminated the rule against perpetuities. Delaware is one example of a jurisdiction placing no time limits on the trust's existence. You can say that educational and medical expenses would be covered from here to eternity.

A properly planned and structured HEET allows you to benefit your family and charity while shielding large amounts of wealth from GST and gift taxes. For affluent grandparents in particular, the HEET is a powerful estate planning tool that deserves serious consideration.

Anchin's Trusts and Estates Services Group

The professionals of the Trusts and Estates Services Group at Anchin, Block & Anchin LLP focus on what will remain with our clients at the end of the day, making sure that no portion of their wealth is unnecessarily lost to income and estate taxes. To achieve the desired results, team members provide a full range of services in the areas of income and estate planning, wealth accumulation, succession planning and valuation services.

Services are provided in three main areas:

CONSULTING AND ADVISORY SERVICES FOR TRUSTS, ESTATES AND BENEFICIARIES
- Income Tax Planning for Trusts, Estates and Beneficiaries
- Creative Funding of Credit Shelter and Marital Trusts
- Pre- and Post-Mortem Planning
- Succession and Estate Planning
- Charitable Giving
- Mediation of Intra-family Conflicts
- Guiding Fiduciaries with Trust and Estate Administration

COMPLIANCE SERVICES
- Trust and Estate Income Tax Returns
- Formal (Judicial) and Informal Ac countings
- Personal Income Tax Returns
- Charitable Trust and Private Foundation Tax Returns
- Income, Estate and Gift Tax Audits

VALUATION, LITIGATION SUPPORT AND FORENSIC ACCOUNTING SERVICES
- Valuation Services for Gift and Estate Purposes
- Valuation Services in Litigation
- Expert Testimony

The coordinated group of specialized services provided by the Trust and Estates professionals at Anchin, Block & Anchin LLP is hard to find at other accounting firms. Our expertise in these complex areas of tax law demonstrates yet another way that Anchin lives up to its role as "Your Expert Partner."

For additional information, please contact any of the individuals in this group:

E. Richard Baum, CPA, JD
Richard.baum@anchin.com
Jane Bernardini, CPA
Jane.bernardini@anchin.com
Mela Garber
Mela.garber@anchin.com
Jeffrey Perelman, CPA
Jeffrey.perelman@anchin.com
Bernard Rappaport, CPA
Bernie.rappaport@anchin.com

Vol.1 1Q 2008 Copyright © 2008 Anchin Block & Anchin LLP The *Anchin Advantage: Wealth Preservation for Future Generations* is published by Anchin, Block & Anchin LLP, Accountants & Advisors. A service for clients, business associates and staff, this newsletter contains articles which are general in nature and based on sources which are believed to be authoritative. Specific applications would require consideration of all facts and circumstances by qualified professionals. The firm will be pleased to provide additional details upon request. No part of this newsletter may be reproduced or utilized in any form or by any means without written permission from Anchin, Block & Anchin LLP. U.S. Treasury Circular 230 Disclosure: If any tax advice is contained in this communication or attachments, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax related penalties under federal, state, or local law, or (ii) promoting, marketing or recommending to another party any matters addressed herein.

Anchin, Block & Anchin LLP
Accountants & Advisors

1375 Broadway, New York, NY 10018
Long Island ● Westchester

212 840-3456
www.anchin.com