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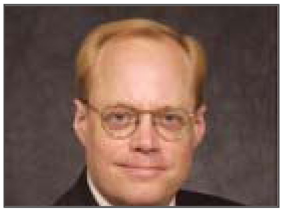

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THE TAX LAWYER

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What To Buy And Expense Before Year End

No, I won’t exhort you to succumb to the latest in infomercial products, no matter how tempting. See ‘Pennies On The Dollar’ Tax Relief: How Much Is It Worth? Besides, personal and business likes and needs should control what you buy, not taxes. Still, timing matters. Most tax planning involves deferral rather than eliminating taxes entirely. See Making Tax Decisions In Limbo. Taxes and timing are symbiotic.

So if you’re about to buy a new copy machine, lathe or Zamboni for your small business, should you buy it before or after year end? Normally you accelerate tax deductions and defer income to the extent you can. This year-end is odd, though, because increasing tax rates suggest some deductions may be worth more in 2011 than 2010. Still, I’d probably make my purchase now.

If you need to make purchases for your business, writing them off immediately is much more attractive than depreciating them over time. Section 2021 of the aptly named “Encouraging Investment” part of the Small Business Jobs Act of 2010 boosts the amount you can expense (under tax Code Section 179) to a whopping $500,000. See Big Tax Changes In Small Business Tax Law. Proprietors, partnerships, LLCs and corporations can elect to deduct (rather than depreciate) up to $500,000. This extra rich allowance applies for 2010 and 2011 only. Previously the limit was $250,000, and it goes back to $250,000 for 2012.

The $500,000 ceiling is reduced dollar for dollar (but not below zero) if the cost of all Section 179 property placed in service during the year exceeds $2 million. And while some types of property are excluded, the 2010 law expands the list of qualifying property. It now includes certain qualified leasehold improvements, qualified restaurant property and qualified retail improvements.

Plus, unlike the usual depreciation rules, you don't have to winnow down your deduction to the portion of the year that you actually use the equipment you buy. In other words, you can actually buy the equipment for your business on the last day of the year and ***still*** deduct the whole cost. That's a great benefit.

There's a taxable income limit in addition to the dollar ceiling. But businesses can be combined for this purpose. Your deduction is limited to taxable income from ***any*** of your active trades or businesses. In other words, even if the business in which you use the copy machine or Zamboni isn't profitable, you can still deduct its cost as long as some ***other*** business you operate (say a sandwich shop) ***does*** make money.

For more about expensing property, see:

IRS Publication 946 How to Depreciate Property

Electing the Section 179 Deduction

Section 179 Depreciation Deduction

Robert W. Wood practices law with Wood & Porter, in San Francisco. The author of more than 30 books, including Taxation of Damage Awards & Settlement Payments (4th Ed. 2009, Tax Institute), he can be reached at wood@woodporter.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.