

The Advisor

The C&P Advisors companies are happy to bring our latest newsletter to you. If you have questions on any of these topics, contact your C&P Advisor or the individuals listed.

July 2009

Insurance Policy Check-Up

Have you checked your insurance policy lately? If not, now is the time to do it. The insurance industry has been affected by both the economy and the turbulent financial markets. Policies that were considered strong only 24 months ago may have been weakened by either poor investment performance or problems with the insurance carrier.

The first issue is policy specific. It affects most policies, except for term and traditional whole life policies. If you purchased a policy under the assumption that the policy would earn an annual rate of return between 7% and 10%, it is unlikely that your policy's current performance is up to its initial expectations. This may require future changes to the policy, generally through either increased premiums or a lower death benefit. Alternatively, changing circumstances may warrant replacing the policy to one better suited to your current needs.

The second problem relates to the health of your insurance company. The insurance industry has been hit hard by recent economic events. The industry has major investments in mortgages, real estate, and other assets hit especially hard by the recent crisis. Many once stellar companies have been downgraded by the major insurance rating services. More than a dozen life insurers have applied for aid from the government's Troubled Asset Relief (TARP) Program.

Among some of the hardest hit are many popular companies, whose names you would readily recognize. With a weak economy, many insurers face losses that can eat away at their capital that regulators require them to maintain. There is concern about how long they can continue with rating agencies cutting the ratings of a dozen or more insurers in recent weeks. Although the insurance industry has a good track record for not leaving policyholders without coverage, they often force carriers to consolidate. Some of these changes may affect your policy.

Now is the time to review your existing life insurance policies. We can help you through this confusing process.

Call Jason Ice or Jim Komos at 216-831-7171. Together with your insurance professional, we can work with you to analyze your options and develop a plan to make sure that your policies will meet your insurance needs.



Jim Komos, Partner

Local Tax Departments Trolling for New Revenues

As you are aware, the State of Ohio is in dire straits when it comes to its budget. Ohio is not alone. All states are looking for ways to raise capital. Many states are looking at businesses to help meet their budget needs. They are placing particular emphasis on (1) stepping up enforcement on existing taxes, (2) interpreting nexus more broadly, and (3) proposing either additional or increased business taxes/fees. Many state legislatures, particularly California, New York, Illinois, New Jersey, and Massachusetts, are very aggressive in their efforts to close budget gaps through additional corporate taxation and tax enforcement.

Increased enforcement of existing laws is a major component of most state and local governments' plans. This option is popular since it limits the need to raise taxes during these difficult economic times. Targeting businesses headquartered outside of the state is especially likely.

States are also stepping up efforts to establish nexus, the legal term for a taxable presence in a jurisdiction. Tax authorities are actively targeting companies that have been doing business in their state but have not been filing either corporate income tax returns or sales tax returns.

Businesses should consult with a tax professional before responding to a state's nexus survey, even if they feel certain they have no tax liability in the state. Many companies may believe they are protected by a federal statute that says a state cannot impose income taxes on a company that is in the state simply to solicit sales. But the statute doesn't apply when a

company is selling services, when sales tax is involved, or when a state has a gross receipts tax instead of a corporate income tax (such as Washington, Texas, Michigan, and Ohio).

Recent court cases may make nexus more difficult to avoid. Companies were once considered to have nexus in a state only if they maintained a physical presence in the state. But, state supreme courts are taking a broader interpretation as to what constitutes conducting business in a state. Activities such as catalog sales, or the solicitation of credit card holders, can constitute economic nexus and subject a company to tax.

Another approach gaining favor with state revenue departments is to require unitary reporting. This approach requires companies to consolidate all their business units or affiliated companies and report their combined income in the state if any single unit conducts business there. The state can then levy a tax on that income based on a formula that varies by state but typically considers the proportion of the company's sales, property, and payroll in the state relative to its overall business.

Even with federal stimulus funds, states' finances are unlikely to improve any time soon. Companies should, therefore, prepare for tougher scrutiny from tax auditors and creative tax legislation from state legislatures. It is important to discuss these issues with your tax advisor before the state tax authority does it for you. Contact your C&P advisor at 216.831.7171 to discuss how these issues may affect you.

NOTE: This newsletter is issued to provide you with information about minimizing your taxes. Many of the items noted may be subject to phase-out rules at higher income levels. Do not apply this general information to your specific information without additional details. Be aware that tax laws contain varying effective dates and numerous limitations and exceptions that cannot be summarized easily. For details and guidance in applying the tax rules to your individual circumstances, please contact us.