



Axial Financial Group

Centered on You.

January 2009

Axial Financial Group
5 Burlington Woods Drive
Suite 102
Burlington, MA 01803
(Tel) 781-273-1400
(Fax) 781-273-1402
info@axialfg.com

Dear Clients:

We hope that you had a wonderful holiday season and that 2009 will be a great year for you and your families.

All of us at Axial would like to thank each and every one of you for your loyalty and support during 2008. It was a challenging year for everyone - and we look forward to the hope and opportunity a new year brings.

Your allegiance to our firm gives us even greater incentive to work as hard as we can to provide you with the best possible advice and guidance so you can successfully meet all of your financial goals.

Please let us know if we can assist you in any way. We look forward to talking to you or seeing you soon.

Happy New Year,

Axial Financial Group

In this issue:

Exceptions to the Early Distribution Penalty

The ABCs of 1031 Like-Kind Exchanges

As 2009 Dawns, Is There Hope on the Horizon?

Ask the Experts

Exceptions to the Early Distribution Penalty

Generally, taxable amounts you withdraw from an IRA, 403(b), or qualified retirement plan before



age 59½ are subject to a federal 10% penalty tax (and possibly a state penalty tax, too) in addition to any federal (and possibly state) income tax due. SIMPLE IRAs are subject to a 25% penalty for premature distributions made during the first two years of participation. Fortunately, Section 72(t) of the Internal Revenue Code lists several exceptions to this premature distribution penalty tax.

Exceptions applicable to all plans

A qualified transfer or rollover from one retirement plan to another generally isn't subject to the penalty tax. Also, distributions made to your beneficiary or your estate after your death aren't subject to the early withdrawal penalty. Other exceptions include:

- Distributions not exceeding the amount of your tax-deductible unreimbursed medical expenses.
- Distributions made because of a qualifying disability.
- Amounts levied by the IRS directly from your qualified retirement plan. This exception doesn't apply if you withdraw funds from a plan to pay the IRS.
- Qualified reservist distributions pursuant to the Pension Protection Act of 2006.

Exceptions applicable only to IRAs

The 10% penalty doesn't apply if the distribution is made for you, your spouse, or your child or grandchild to pay qualified postsecondary education expenses, such as tuition, and room and board. If you're a first-time

homebuyer, you can take pre-59½ IRA withdrawals if they're used to pay the costs of acquiring, constructing, or reconstructing your principal residence up to a \$10,000 lifetime limit. You also can take penalty-free IRA distributions up to the cost of health insurance premiums you pay during a qualifying period of unemployment.

Exceptions for non-IRA retirement plans

Distributions made pursuant to a qualified domestic relations order (QDRO) are not subject to the penalty. Also, you can take penalty-free withdrawals from a qualified plan after separating from service with the employer maintaining the plan if your employment ends during or after the year you reach age 55. You may also be able to take qualifying distributions of dividends from your employer's employee stock option plan without penalty.

Substantially equal payments exception

An important exception that applies to all IRA and qualified retirement plans is the substantially equal periodic payments exception. To comply with this exception, you must withdraw funds from your retirement plan at least annually based on an IRS-approved distribution method. For qualified plans (but not IRAs), you also must have separated from service with the employer maintaining the plan.

There are three IRS-approved methods for calculating payments, but regardless of the method you choose, you generally can't change or alter the payments for five years or until you reach age 59½, whichever occurs later (although the IRS has held that owners can make a limited one-time switch between certain methods without incurring the penalty tax). Otherwise, if you modify the payments (e.g., by taking amounts smaller or larger than required distributions or none at all), you will be subject to the 10% premature distribution tax on the taxable portion of all pre-59½ distributions (unless another exception applies).



Like-kind property is property of the same nature, character, or class. Quality or grade does not matter. Most real estate will be like-kind to other real estate. For example, real property that is improved with a residential rental house is like-kind to vacant land. One exception for real estate is that property within the United States is not like-kind to property outside of the United States. Also, improvements that are conveyed without land are not of like kind to land.

**IRS Fact Sheet
FS-2008-18**



The like-kind exchange rules do not apply to:

- *Stock in trade or other property held primarily for sale*
- *Stocks, bonds, or notes*
- *Other securities or evidences of indebtedness or interest*
- *Interest in a partnership*
- *Certificates of trust or beneficial interests*
- *"Choses in action" (rights to recover money or property in a court proceeding)*

The ABCs of 1031 Like-Kind Exchanges

A like-kind exchange, sometimes called a 1031 exchange after the section of the Internal Revenue Code that governs these transactions, is the exchange of one business or investment property for another. Provided the property you receive is of a "like kind" to the property you transfer, and all other requirements are met, no gain or loss is recognized on the income deferred as a result of the exchange. This has made like-kind exchanges a popular technique for investors looking to defer the payment of taxes on capital gains. When it comes to like-kind exchanges, though, even the most straightforward transaction is complicated.

Simultaneous swaps

If there is a "basic" like-kind exchange, it takes the form of a simultaneous exchange. You transfer business or investment property to another party in return for similar property. For example, let's say you own a piece of land that has a basis of \$200,000 (your cost) and a fair market value of \$400,000. If you were to sell the property, you would recognize \$200,000 in gain. Instead of selling the land, however, you exchange it for a rental property owned by another individual. If all the conditions of IRC Section 1031 are met, you do not recognize any gain as a result of the exchange (recognition of any gain is deferred until you sell the rental property). If you receive cash in addition to the rental property, gain is recognized to the extent of the cash received.

Deferred exchanges

With a deferred exchange, you give up your original property before receiving the replacement property. During the time that you're looking for a replacement property, you can't touch the proceeds from your original property (taking control of cash or proceeds before the entire like-kind exchange is complete can disqualify the transaction). For this reason, deferred like-kind exchanges generally involve executing a written exchange agreement with a qualified intermediary or other exchange facilitator, such as a bank, trust company, or attorney, that you pay to handle the transaction. The intermediary, who may assist you in locating a replacement property, is responsible for keeping the proceeds from your original property separate in an escrow account until the exchange is complete.

In a deferred exchange, you have 45 days from the date that you relinquish your original

property to identify, in writing, potential replacement properties. You must then receive the replacement property and close the exchange within 180 days from the date you relinquish your original property, or by the due date of your tax return (including extensions) for the tax year in which you relinquished your original property, whichever is earlier.

Tenancy-in-common (TIC) exchanges

With a TIC exchange, you exchange real property, and as replacement property, you receive a partial ownership interest (you're a co-owner, specifically a tenant-in-common) in commercial real estate. For example, you might exchange a piece of land with a fair market value of \$400,000 for a 10% TIC ownership interest in a \$4 million commercial property. TIC interest offerings include partial ownership interests in manufacturing facilities, office buildings, and malls.

These exchanges are extremely complicated. In fact, for a TIC interest to even qualify as potential replacement property in a like-kind exchange, there are extensive conditions that must be met. Most TIC interests are sold as securities, and are not available to the general public. TIC interests are generally available only to individuals who qualify as "accredited" investors (basically, those with a net worth greater than \$1 million, or income of at least \$200,000--\$300,000 for a married couple--for the prior two years). TIC offerings are non-conventional investments, and while they might provide ownership opportunity in a larger property than you might otherwise be able to afford, they are not suitable for all investors. In addition to the significant fees and lack of liquidity generally associated with TIC exchanges, you'll typically have little or no day-to-day control over the TIC property.

Final thoughts

It can't be overemphasized: like-kind exchanges are complicated, and there's simply no way to cover all the rules here. So, before you even consider a like-kind exchange, you should familiarize yourself with the details, including all tax aspects of an exchange. Note as well that special rules apply to exchanges between related parties.

A like-kind exchange can be a powerful strategy for investors and business owners, so it's worth understanding. But, if you're interested, make sure that you contact a qualified professional who can help you navigate the intricate rules that apply.

As 2009 Dawns, Is There Hope on the Horizon?

There's little doubt that 2008 will be remembered as a tumultuous year. Rising food and fuel prices, turmoil in the credit and housing markets, inflation pressures, and the volatility of the stock market all contributed to economic pressures. But buried within the negative headlines was some good news you may have missed--here's a recap.

Financial help for homeowners

If you're a homeowner, you may benefit from a new income tax deduction. When you're filing your 2008 federal income tax return in 2009, you may be able to take a deduction for property taxes you've paid--even if you don't itemize. Taxpayers who claim the standard deduction may be able to claim an additional deduction of up to \$1,000 if married or \$500 if single.

If you're a first-time homebuyer, you may be able to take a refundable tax credit of 10% (up to a maximum of \$7,500 or \$3,750 for married persons filing separate returns) of the purchase price of a home you've purchased after April 8, 2008, and before July 1, 2009. However, this credit is phased out for individuals with adjusted gross incomes ranging from \$75,000 to \$95,000 (\$150,000 to \$170,000 if married filing jointly). And keep in mind that this tax credit functions more like a loan--you'll need to repay the credit over 15 years in equal installments on your annual tax return (possibly sooner if you sell your home or don't use it as your main residence).

New ways to manage college costs

Student loans staged a disappearing act in 2008, as the credit crisis drove some lenders out of the student loan market and forced others to become more selective. But the Higher Education Opportunity Act, which became law in August, contains several provisions that will help families and students better manage the high cost of college. These will be phased in during 2009 and in future years. Some highlights:

- Individuals who have worked for at least ten years in certain public service occupations (e.g., teachers, nurses, law enforcement officers, firefighters) may qualify to have their federal student loan debt forgiven (up to \$10,000)
- Colleges will be encouraged to control price increases, and textbook publishers will be required to provide complete retail price information and sell unbundled

versions of textbooks to help control costs

- The maximum Pell Grant will increase from \$5,800 to \$9,000 per academic year, and will be available year-round
- The federal student aid application (FAFSA) will be streamlined, making it easier to apply for financial aid

Expanded education benefits for the military

August 1, 2009, marks the debut of a new GI bill, which has been hailed as the first major expansion of education benefits for the military since World War II. Active duty service-members (including members of the Guard and Reserve) may be eligible for the new program. Education benefits will be payable for up to 36 months, and will cover tuition costs and fees. Eligible veterans may also receive a monthly stipend for books and supplies, and a monthly housing allowance. In some cases, benefits may even be transferable to spouses and dependent children. You can find more information on the Department of Veterans Affairs website, www.gibill.va.gov.

New "green" vehicles

Gas-saving vehicles have been rolling off assembly lines for several years. Up until now, most have been passenger cars, and smaller SUVs and trucks. But these are now sharing the road with larger and sportier models, including a hybrid version of an infamous gas guzzler--the Cadillac Escalade. Admittedly, the 2009 Escalade's estimated 20 mpg city isn't going to break any fuel conservation records, but its emergence is a sign that Detroit is focused on developing even more fuel efficient vehicles in 2009 and beyond, due to growing demand.

As in previous years, when you purchase a qualified hybrid or other alternative fuel vehicle, you may be entitled to claim a tax credit when you file your federal income tax return. This credit will reduce your tax bill dollar-for-dollar. You can find a list of qualified vehicles on the IRS website, www.irs.gov.

The road to recovery is paved with good intentions--and probably new legislation

Will an economic recovery take place in the first half of 2009, the second half of the year, or even later? No one knows for sure. But economic woes will likely result in new initiatives and relief measures, so keep your eyes open for developments on the road ahead.

Economic woes will likely result in new initiatives and relief measures, so keep your eyes open for developments on the road ahead.



Good news for Medicare beneficiaries

For the first time since 2000, the monthly standard premium for Medicare Part B won't be rising. In 2009, individuals enrolled in Medicare Part B will pay \$96.40 per month--the same premium they paid in 2008.



The accompanying pages have been developed by an independent third party. Commonwealth Financial Network is not responsible for their content and does not guarantee their accuracy or completeness, and they should not be relied upon as such. These materials are general in nature and do not address your specific situation. For your specific investment needs, please discuss your individual circumstances with your representative. Commonwealth does not provide tax or legal advice, and nothing in the accompanying pages should be construed as specific tax or legal advice. Securities and advisory services offered through Commonwealth Financial Network, member FINRA/SIPC, a Registered Investment Adviser

Ask the Experts



Can I get an estimate of my child's financial aid eligibility before we officially apply for aid?

Yes. Last year, the U.S. Department of Education launched an online financial aid tool to help families bet-

ter prepare for the cost of college. Called the FAFSA4caster, it's modeled on the government's official aid application, the FAFSA (Free Application for Federal Student Aid). The tool examines a family's financial data and estimates how much aid a student might expect to get. To use the tool, visit www.fafsa4caster.ed.gov.

To complete the FAFSA4caster, gather the following information for you and your child:

- Social Security numbers
- Federal tax information or tax returns, including W-2 information
- Information on savings, investments, and business and farm assets
- Records of any untaxed income (such as Social Security or welfare benefits)

To get as accurate an estimate as possible, you should answer all the questions on the tool, even if you have to estimate or guess.

Using the FAFSA4caster isn't exactly a quick process, but when you're ready to apply officially for federal aid, the FAFSA4caster will automatically transfer all of your data (that's password protected and saved securely) to your online FAFSA application, saving you the hassle of keying in all your information again. And, if your financial circumstances change, you'll get the opportunity to update any answers on the FAFSA that you originally submitted on the FAFSA4caster.

By providing an advance estimate of federal aid eligibility, the FAFSA4caster can help you forecast how much money you and/or your child may need to come up with to meet college costs--information that can also come in handy in the college selection process. By having an idea of the numbers ahead of time, you can help minimize unwelcome surprises.