**2009 Year-End Income Tax Planning**
By CPM Tax Attorneys

With 2009 drawing to a close, we want to remind you of important tax changes which will sunset in 2011 if Congress does not act to continue current tax-favorable measures. There have even been rumblings about legislation to accelerate some or all of the expiration dates, which would, if passed, result in such tax-favorable items terminating prior to the end of 2011. Please plan promptly to take advantage of current tax laws before they are eliminated. These include the following:

- The top four federal income tax rates (25%, 28%, 33% and 35%) would return to pre-2001 levels (28%, 31%, 36% and 39.6%, respectively). The current administration favors permitting only the top two tax brackets to return to the higher rate, but all four are scheduled to sunset.
- Certain exemptions from the alternative minimum tax (AMT) currently apply to lessen the impact of the AMT on upper-middle class taxpayers. Congress may extend these exemptions for 2010 and beyond, but there is no guarantee it will do so.
- The federal estate tax is eliminated for the 2010 tax year, but will return in full force in 2011, possibly at unfavorable 2001 levels without further action.
- The 15% tax rate on qualified dividends will be eliminated; thereafter, dividends will be taxed as ordinary income to the recipient taxpayer and will continue to be non-deductible to the issuing corporation.
- The federal long term capital gain rate will revert to 20% from the current 15% on qualified gains.

Because the previously enacted tax cuts sunset unless extended by Congress, and because Congressional extension of those tax cuts (especially with respect to high-income taxpayers) seems unlikely, business owners should consider some strategies:

- Consider distributing accumulated C-corporation earnings and profits while the qualified dividend tax rate is still 15%. After December 31, 2010, current law would increase such rates to shareholders' ordinary income tax rates.
- Consider selling long-term capital gain property while the maximum tax rate is 15%. After December 31, 2010, that rate likely will increase to 20%.
- Carefully consider the impact and timing of deductions against ordinary income, such as depreciation expense deductions and charitable contribution deductions, and taking into account the higher tax rates which may apply in tax years after 2010 when the two highest tax brackets will likely increase, with a corresponding increase in taxes for taxpayers in such brackets.

A summary of additional 2009 year-end tax planning issues is available on our website at www.cpmlaw.com. For more information, please contact David Jackson, Carol Sheehan, Dick Bibart, or your CPM attorney.