

Accountability

Issue IX

IS IT REALLY OVER?

A LOOK AT TAX PLANNING

During the year, a client may look to you for validation of a questionable tax plan developed by them or an attorney. If you don't think this is a red flag or suspicious, think again. It's one thing if you formulated the tax plan, but validating a questionable tax plan is cause for concern. If the aggressive tax plan fails, your client may deny any participation and will look to you for any recovery of any additional tax or penalties imposed by the taxing authority.

A tax plan may be structured in an infinite number of ways. It all depends on what the plan is meant to accomplish. In most engagements, the objective is to limit the amount of taxes paid, but it's not unusual for a firm to design a plan to limit a client's personal liability or to assist with retirement planning. Meeting these objectives will require an exhaustive inquiry into business and non-business issues before rendering any advice.

YOUR ROLE IN TAX PLANNING

At minimum, a concerted effort between you and the client is required. The roles and responsibilities should be outlined in an engagement letter which should include the following provisions:

- ◆ State that there is no guarantee (expressed or implied) that the plan will be approved by the taxing authority.
- ◆ Indicate that the tax plan will be based on specific factual representations and existing

tax laws, both of which are subject to change.

- ◆ Point out that the advice is for initial planning only and that compliance with other conditions must be evaluated before and during the implementation of the tax plan.

ONCE YOU UNDERTAKE THE ENGAGEMENT:

- ◆ Ensure that the client provides sufficient factual data and supporting documentation.
- ◆ Keep abreast of any changes in your client's tax status and financial activities.
- ◆ Research current law and alternative positions.
- ◆ Look for potential legislative changes that could be enacted before the plan is implemented.

Documentation will play a key role, therefore following up on any oral advice with a written communication will help eliminate any misunderstandings between you and the client.

FINAL WORD

When you're ready to present your tax plan, you should make it clear to your client that the advice is subject to future changes in tax laws or their overall tax position. You should:

- ◆ Discuss the extent to which your client will be advised of any future changes in the law.
- ◆ Be aware that the client has an obligation to keep you advised of changes in tax status and/or financial activities that might affect the tax plan. You're partly responsible for keeping the lines of communication open.

