

TAX AND ACCOUNTING DIGEST

BAMBO SONAIKE, CPA, LLC

770.956.6455

1640 POWERS FERRY RD, BUILDING 8 STE 220, MARIETTA, GA 30067

WWW.CPA-SERVICE.COM

DEDUCTING VEHICLE DONATIONS

If you donated a car or other vehicle to charity and claim a deduction greater than \$500, remember that the rules for deducting that donation have changed. If the vehicle is sold by the charitable organization, the deduction claimed by the donor may not exceed the gross proceeds from the sale.

Form 1098-C or other written acknowledgment of the donation from the organization must be attached to the taxpayer's return. Among other things, the acknowledgment generally must include the gross proceeds of the sale, the vehicle identification number, and a statement certifying the vehicle was sold in an arm's length transaction between unrelated parties.

ISSUES WHEN OPERATING A BUSINESS WITH SPOUSE

One of the advantages of operating your own business is hiring family members. However, the employment tax requirements for family employees may vary from those that apply to other employees. Below, we point out some issues to consider when operating a husband and wife business.

A spouse is considered an employee if there is an employer/employee type of relationship, i.e., the first spouse substantially controls the business in terms of management decisions and the second spouse is under the direction and control of the first spouse. If such a relationship exists, then the second spouse is an employee subject to income tax and FICA (Social Security and Medicare) withholding. However, if the second spouse has an equal say in the affairs of the business, provides substantially equal services to the business, and contributes capital to the business, then a partnership type of relationship exists and the business's income should be reported on Form 1065, U.S Return of Partnership Income.

On May 25, 2007 the Small Business and Work Opportunity Tax Act of 2007 was signed into law and affect changes to the treatment of qualified joint

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VEHICLE DONATIONS CONTINUES

The taxpayer can generally deduct the vehicle's fair market value, if: (1) The organization makes significant intervening use of or materially improves the vehicle (2) The organization gives or sells the vehicle to a needy individual at a price significantly below FMV in direct furtherance of its charitable purpose of relieving the poor and distressed or underprivileged who are in need of a means of transportation (3) The claimed deduction is \$500 or less.

For donations made after June 3, 2005, the FMV cannot exceed the private party sales price listed in a used vehicle pricing guide.

If the organization intends to make significant intervening use of the vehicle or material improvements to the vehicle, the acknowledgment must include certain certifications. If the organization intends to sell the vehicle to a needy individual at a price significantly below FMV, or gratuitously transfers the vehicle to a needy individual, the acknowledgment must also include certain certifications.

ISSUES WITH SPOUSE CONTINUES

ventures of married couples not treated as partnerships.

The provision generally permits a qualified joint venture whose only members are a husband and wife filing a joint return not to be treated as a partnership for Federal tax purposes.

A qualified joint venture is a joint venture involving the conduct of a trade or business, if (1) the only members of the joint venture are a husband and wife, (2) both spouses materially participate in the trade or business, and (3) both spouses elect to have the provision applies.

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*Have you received a letter
from the IRS?*

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for advice and guidance

Under the provision, a qualified joint venture conducted by a husband and wife who file a joint return is not treated as a partnership for Federal tax purposes. All items of income, gain, loss, deduction and credit are divided between the spouses in accordance with their respective interests in the venture. Each spouse takes into account his or her respective share of these items as a sole proprietor. Thus, it is anticipated that each spouse would account for his or her respective share on the appropriate form, such as Schedule C. For purposes of determining net earnings from self-employment, each spouse's share of income or loss from a qualified joint venture is taken into account just as it is for Federal income tax purposes under the provision (i.e., in accordance with their respective interests in the venture).

This generally does not increase the total tax on the return, but it does give each spouse credit for social security earnings on which retirement benefits are based. However, this may not be true if either spouse exceeds the social security tax limitation. This provision is effective for taxable years beginning after December 31, 2006.

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If your spouse is your employee, not your partner, you must pay Social Security and Medicare taxes for him or her. The wages for the services of an individual who works for his or her spouse in a trade or business are subject to income tax withholding and Social Security and Medicare taxes, but not to FUTA tax

Bambo Sonaike, CPA, LLC
1640 Powers Ferry Rd
Building 8 Suite 220
Marietta GA 30067