Meisel, Tuteur & Lewis, P.C.
Certified Public Accountants
Management Consultants

Thoughts from Outside the Box

OUR PERSPECTIVES

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Dear Clients and Friends:

The accounting industry has undergone significant change in the past few years and continues to evolve even today. With competition growing, many mid sized firms are becoming highly specialized in an effort to find a competitive advantage. While this strategy boasts some benefits, we at MT&L have significant concerns about this new direction.

One of the reasons that some firms are specializing is to eliminate risky services from their offerings. The obvious downside here is that business owners still require these services and are forced to find multiple "trusted advisors" to meet their financial needs. Doing so can splinter internal resources, cost more money, and may also leave a company vulnerable as it opens up proprietary and sensitive data to an increasing number of professionals and businesses.

We recognize that business owners don't need us simply for the generation of financial statement information, nor do they need us solely for the delivery of a specialized service. The real need lies in receiving integrated advisory services that focus on improving the business overall. There is value to understanding what the numbers are telling you as a business owner, understanding where you need to make changes in order to improve efficiencies and profitability, and understanding how you can meet your growth goals and financial commitments, as well as achieving your family's dreams. This is where the team at MT&L shines and this is the very reason we are committed to maintaining a holistic approach to being a business advisor. We will not change our model to become more competitive; rather, we will stay the course and provide our clients with all of the services they need so that they can be more competitive.

We stand by the philosophy that your success is the best measure of our own success.

Very truly yours,
Michael S. Lewis, CPA
Managing Partner

Staying Positive in a Down Economy

Curtis W. Gambin, CPA

We are constantly being bombarded about how poorly the U.S. economy is performing. Media and business gurus far and wide reiterate the downturns in real estate and housing, the fall-off in retail sales, the weakness of the dollar, rising gas and food costs, and alarming figures involving debt, bankruptcies and foreclosures. Although staying positive and financially stable in a down economy can be difficult, perhaps the first step is to stop listening to everything being reported on the evening news. Like all businesses, the media needs to sell, and fear sells in our society. As a prudent business person, you likely realize that things are rarely as good–or as bad–as they appear. The following tips should be considered by every small business owner dealing with the current recession:

Costs:

Don't spend the majority of your creative energies concentrating on cutting costs. Managing expenses should be something businesses do at all times, not just in bad markets. Develop an appropriate budget as part of the overall vision and plan for business growth, not as the sole strategy for increasing your profitability.

Marketing:

Don't eliminate your sales and marketing efforts. Cutting back may seem like an easy way to boost margins, but in reality you are shortening your life line and cutting off your future business opportunities. Instead, look for ways to be smarter with your marketing. Develop advertising that differentiates you from your competition; try promotions that play off the economy; and revisit your business model by becoming a "solution provider" not just a supplier of your respective product or service.

Customers:

Current (and past) customers are the life blood of your business. Often, this is the same group of assets most overlooked. Don't become complacent when it comes to nurturing and developing these important relationships. These are the people who have done business

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Staying Positive in a Down Economy

with you already, who like and trust you, who will more than likely do business with you again, and who will bring others to you if they are appreciated and satisfied. Put together a "loyalty program" that ensures your customers feel they made the right choice in doing business with you.

Education:
Rather than cutting this area of your budget, consider reinvesting in educating your team and improving processes to gain a competitive edge. Examine your business from a customer's perspective, then work towards correcting the weak areas of your company and improving on the overall experience.

Leadership:
As the owner of a business, you are likely aware that the way you act and think has a drastic impact on your employees. Continually harping on the poor economy and bad marketplace sends a negative message, and your team will soon believe there is little they can do to turn things around. Instead, spend your energy in the pursuit of new business without neglecting what you currently have. Simply waiting for a bad market to turn around without being proactive is a recipe for failure. As the commander and chief of your business, maintaining a positive attitude is an important step in convincing your troops that everything will be alright. ■

Investing in Real Estate? Consider Your Entity Selection Carefully

Thomas J. Stickle, CPA

The following are the various entity ownership options from which an investor can choose:

- **Direct ownership (in personal name)**
- **Partnership (general or limited)**
- **Corporation (C-Corp or S-Corp)**
- **Limited Liability Company**

The first option, direct ownership in your personal name, is not advisable for liability purposes and should only be considered in limited situations. An example of such a situation is a case in which the property is a small one, part of which is used by the owner as a residence while the second portion of the house is a rental property (a duplex). Although the owner faces potential liability issues, he or she will receive favorable tax treatments for the personal portion of the residence upon sale. The investor will be entitled to the $250,000 gain exclusion if single, $500,000 if married and filing jointly. If this type of property were owned through any other entity type, the exclusion would not be available.

The second, owning an investment property through a partnership, is the logical choice when a larger property is purchased by more than one investor. This entity structure affords the investment group a flexible tax structure which results in any income or loss being allocated directly to each individual investor based on their respective ownership percentage. This type of entity also allows qualified non-recourse debt to be treated as additional tax basis, enabling

investors to avoid taxation on excess distributions and to use losses that they may not be entitled to in a corporate ownership format. It is important to note that in order for an investor in a partnership to have liability protection for a specific investment, the partnership must be legally formed as a limited partnership, usually with a corporate general partner owning 1% or less.

Next, investment property can also be purchased through a corporation (either a C-Corporation or S-Corporation). It is generally not advisable to own property though a C-Corporation because of unfavorable tax treatment upon its sale. Any gain recognized on the sale of the property would be at the corporate rates with no favorable tax treatment of the individual long term capital gain rates (presently 15%). In addition, any distributions to the shareholders would result in additional tax at the individual level. In contrast, an S-Corporation provides investors with a more beneficial tax structure as income or loss is passed through to the individual investors and taxed at the respective individual tax rates. An S-Corporation, however, does not allow for the special income allocating allowed through a partnership. Nor does it allow for qualified non-recourse debt to be allocated for tax basis purposes. Although corporate ownership provides individual investors with the liability protection they desire, it does not provide

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New Definition of Sales Tax Vendor in New York

William Schwarz, CPA, MST

New York recently enacted legislation amending the Tax Law to provide a presumption that certain sellers of taxable tangible personal property or services are sales tax vendors required to register for and collect state and local sales taxes. Specifically, the new legislation provides that a seller is presumed to be a New York vendor if he or she enters into an agreement with a New York resident under which the resident representative refers potential customers to the seller, whether by link on an Internet Web site or otherwise, and the cumulative gross receipts from sales by the seller to customers in New York as a result of referrals by all of the seller's resident representatives under the contract or agreement total more than $10,000 during the preceding four quarterly sales tax periods.

Basically this means that any vendor, regardless of his or her location, who has a link to his or her web site on a New York resident's or company's Web site will have to register in New York and collect New York sales tax. As you can imagine, there has been a great deal of controversy surrounding this new rule; in fact, Amazon.com and Overstock.com have already filed lawsuits challenging its constitutionality.

In response to this controversy the New York Department of Taxation and Finance has issued a memorandum that provides guidance relating to rebutting the presumption that a seller is a vendor required to be registered for and collect sales tax. The Department will deem the presumption rebutted when the seller is able to establish that the only activity of its resident representatives in New York on behalf of the seller is placing a link on the resident representatives' Web sites to the seller's Web site. In addition, none of the resident representatives may engage in any solicitation activity in the state targeted at potential New York customers on behalf of the seller.

The inclusion of language in a contract or agreement between a seller and a resident representative that prohibits solicitation by the resident representative is not sufficient, by itself, to rebut the presumption that the seller is a vendor. In order to rebut the presumption, the seller must be able to demonstrate both that the prohibition has been established and that the resident representative has complied with it. ■

Final Ruling in the Davis Case

William Schwarz, CPA, MST

As we reported in our 1st quarter newsletter, the United States Supreme Court agreed to hear Kentucky v. Davis, a case which alleged that Kentucky's income tax treatment of municipal bond interest was unconstitutional. Kentucky, like New Jersey, exempts interest earned on "home state" municipal bonds while taxing the interest from out-of-state bonds.

On May 19, 2008, the Supreme Court reversed the Kentucky Appellate Court ruling, concluding that Kentucky's tax treatment of municipal bonds does not discriminate against interstate commerce. Thus, states can continue to exempt "home state" bonds while taxing out-of-state bonds. The Court focused on the fact that the bonds promote the financing of essential governmental services and took into consideration the market ramifications should the tax practice be deemed unconstitutional.

While the decision came as great relief to the 42 states with municipal interest tax policies similar to Kentucky, the Court left the door open for possible future challenges related to private activity bonds issued by governmental entities for private borrowers. ■

Tax Bites

Below is a quick list of some tax changes that may affect you:

- Effective July 1, 2008, the IRS raised the business standard mileage reimbursement rate to 58.5 cents per mile. The standard rate for medical and moving expenses was also raised to 27 cents per mile.
- Effective July 24, 2008, the Federal minimum wage was increased to $6.55 per hour (New Jersey's minimum wage is currently at $7.15 per hour).
- In New Jersey, the deadline for both homeowners and tenants to file their 2007 homestead rebate applications has been extended to October 15, 2008. ■

An Inside Look

Employee News:

In June, **Shane Orbach** spoke about a variety of Sales and Use Tax issues to more than 40 CPAs at a New Jersey Society of CPAs (NJSCPA) seminar.

Curtis Gambin has been promoted to Manager.

Jesse Herschbein was elected Treasurer of the Essex County Chapter of the New Jersey Society of CPAs.

Congratulations to **Jill Bruccoleri** on her marriage to Louis Vignone, on August 9th.

Andrew Fink and **Jesse Herschbein** attended the NJSCPA Conference in Atlantic City in May.

In the Media:

Jesse Herschbein was featured in the July 28 issue of NJBIZ in an article titled, "Turning to Technology to Improve Workflow." ■

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Investing in Real Estate? Consider Your Entity Selection Carefully

them with the most flexible or favorable tax treatment.

Finally, the favorable entity choice over the last several years has been the Limited Liability Company (LLC). This entity format provides the investor with both the liability protection of a corporation and the flexible tax structure of a partnership. Income and loss pass through to the individual investor who also receives the benefit of the qualified non-recourse debt allocation for additional tax basis. This entity format should be strongly considered when entering into a real estate investment. However, it is important to note that in certain states, this type of ownership may have drawbacks. For example, Pennsylvania has an additional level of tax for LLCs based on the amount of capital invested, which can be reduced or avoided by structuring the entity as a Limited Partnership with an LLC as a 1% or less general partner. Other states may pose similar challenges.

Prior to choosing the form of entity that is right for your real estate investment, we recommend that you meet with a MT&L professional to review your specific situation. ■

Trivia Corner

- The oldest business in the United States is the cymbal company Zildjian, founded in Constantinople in 1623.
- On May 5, 1978, Jerry Greenfield and Ben Cohen opened the first **Ben & Jerry's** ice cream shop in a converted gas station in Burlington, Vermont. Their investment of $12,000 and a lot of hard work led to a company that now has more than 700 employees and is famous in supermarkets and malls around the world.
- The first **Gap** store was opened in San Francisco in October of 1969. The first products that they sold were records and jeans. The name came from the term, "generation gap". The Gap has more than 2,400 stores throughout the world with 111,000 employees. An initial $18.00 investment in The Gap made at IPO in 1976 was worth $71 on June 4, 1999.
- It is a little known fact that both Leonardo DaVinci's father and grandfather were accountants and notaries. However, Leonardo was an illegitimate child. Because of this he could not be admitted to the guild of his father. But for this twist of fate, he could have been the greatest accountant the world has ever known. Instead he was apprenticed to an artist's workshop. The rest is history. ■

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Hybrids: Are They Worth It?

Michael Rutkowski

With gas prices rising every day, fuel efficiency is becoming a major factor when purchasing an automobile. It's no accident that hybrid vehicles have become more attractive in recent years. With their increased "miles per gallon" ratings, they are hard to ignore. There are, however, a few things to consider before buying one.

There is much talk about the federal hybrid tax credit. Tax credits are more advantageous than deductions because they allow you to reduce your tax liability, dollar for dollar, by the amount of the credit. In comparison, with deductions, your tax savings are the deduction multiplied by your marginal tax rate.

However, do not assume that you will automatically receive the federal hybrid tax credit upon the purchase of a hybrid vehicle. The IRS phases out the credit after the manufacturer sells 60,000 cars, allowing the taxpayer to take advantage of the full tax credit during the next calendar quarter, but reducing it by 50% during the second and third calendar quarters after the cut-off, and then only allowing 25% of the original credit to be taken in the fourth and fifth calendar quarters. After the fifth calendar quarter, no credit can be taken. The Toyota and Lexus hybrids reached their cut-off in early 2006; therefore, consumers can no longer take advantage of the tax credit. So before you purchase, investigate whether the manufacturer has hit or is close to hitting their sales limit.

One must also bear in mind the date the car is put into service. The credit phase-out starts in the quarter in which you first use the vehicle, not the one in which you purchase it. Consider this example: a manufacturer with a $1,000 credit reaches his 60,000 car cut-off on 7/1/2008; a consumer buys the car on 12/31/2008 but does not put it in service until 1/1/2009. The credit would be reduced by 50% even though the car was purchased during the first quarter following the cut-off.

Other factors to consider include the initial price premium for a hybrid as compared to a non-hybrid automobile, as well as the type of driving that you do. Assuming no tax credit can be taken, a hybrid can cost about $2,000-$8,000 more than its non-hybrid counterpart. One's annual mileage and driving style impact how the car performs, something to be considered when determining if the future gas savings will make up for the original price.

Edmunds did a 2006 study that calculated the estimated time to break-even on a hybrid. We updated the study to account for current gas prices, automobile MSRP prices, and EPA gas mileage. The results in the chart below assume that no tax credits can be taken and that gas costs $4.00/gallon. Miles per gallon numbers are EPA estimates that may change based on an individual's driving style.

To learn how to calculate a federal hybrid tax credit or a financial break-even point for a hybrid, do not hesitate to contact a MT&L professional. ■

YEAR	MAKE	MODEL	YEARS TO BREAK EVEN		
			15,000 Miles/year	20,000 Miles/year	25,000 Miles/year
2009 2008	Toyota Toyota	Corolla Prius	8.7 years	6.5 years	5.2 years
2008 2008	Lexus Lexus	GS460 GS450h	8.9 years	6.7 years	5.4 years
2008 2008	Toyota Toyota	Highlander Highlander Hybrid	12.6 years	9.5 years	7.6 years
2008 2008	Ford Ford	Escape Escape Hybrid	13.5 years	10.2 years	8.1 years

QuickBooks Update

Jesse M. Herschbein, CPA

QuickBooks has allowed many business owners to run their businesses easily, effectively, and with low up-front costs. However, the individual business owner remains responsible for keeping their system safe and updated so that those efficiencies do not slip away over time. Here are some basic actions you can take to keep your system secure and current.

- **Order all checks, deposit slips, and banking related items from a reputable source.** Be sure to follow up immediately if you do not receive your order within the specified time. If the items have been sent and are suspected to be lost in transit and/or missing, contact your financial institution immediately.

- **Be sure your checks include the appropriate security features.** Features to look for on the front of the check include chemically sensitive paper, erasure protection, a padlock/icon warning, and microprint signature line. The back of the check should contain a warning box and security screen. These elements can help you avoid counterfeiting and alteration.

- **Avoid easy access to your banking documents by unauthorized personnel.** Remember to maintain the physical security of your banking documents (checks, deposit slips, statements, etc.). Also, be sure to shred leftover deposit slips after all checks in that booklet/catalog have been used, as well as all financial statements you wish to discard.

- **Reconcile your account regularly.** Monthly reconciliation improves the chances that you will detect inconsistencies early, increasing your ability to recover losses in the event of fraudulent activity. QuickBooks makes it easy: Go to the Banking menu, choose Reconcile, enter the ending date and balance per your bank statement, and mark checks and deposits that cleared during that period. The difference at the bottom should be zero. If not, research the problem immediately, or call on your accountant for assistance.

- **Pay special attention to spacing when writing checks.** To avoid your checks being altered, avoid leaving a space between the dollar sign and the written number, and write names and written amounts as far to the left as possible.

- **When voiding checks, do not use the QuickBooks feature "void checks."** Doing so will eliminate the check from your records as though you never wrote it. Instead, either issue a credit to offset the check or record a deposit in the amount of the check. In either case, at the time of reconciliation, mark both items as cleared.

- **Closely examine checks received from your customers.** Look for misspelled words such as street names and towns, zip codes that do not match the rest of the address, typewritten names and/or addresses, and checks that do not match the customer identification. Verify that the written and numerical amounts match accurately. Additionally, note the physical weight, texture, and color of the check itself.

- **Keep your QuickBooks system updated.** Typically, Intuit discontinues customer support for versions of QuickBooks 3 years or older. This could mean incurring high consultant costs to get problems resolved on older versions.

- **Perform regular backups of your data.** This can be as simple as a daily backup to a USB flash drive, or a more comprehensive system backup onto a backup media such as tape drive.

By following these guidelines you can effectively tighten up your security and increase the efficiency of your QuickBooks system. To learn more, please call your MT&L advisor. ■