

CARRUTHERS & ROTH, P.A.

CLIENT ALERT

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North Carolina Enacts New Tax Giveaway for Small Businesses

By Keith A. Wood

During the summer of 2011, the North Carolina General Assembly enacted a new statute, that will become effective in 2012, which will allow individual taxpayers to deduct up to \$50,000 of "net business income" for North Carolina tax purposes. However, the new deduction doesn't apply to "passive income" which is income that does not involve the active conduct of a trade or business. This new deduction applies to business income earned by a "Schedule C" sole proprietorship, an S corporation or an LLC, but does not apply to income of a C Corporation.

The net business deduction applies beginning in 2012.

Currently, the highest North Carolina individual tax rate is 7.75%. So, this translates to a savings of up to \$3,875 each year in North Carolina taxes. And, it gets better. If both spouses have net business income, then each \$50,000 deduction limit is applied separately. This means that a married couple can deduct up to \$100,000 of net business income each year, which would translate to a North Carolina tax savings of \$7,750 per year!

We have many closely-held businesses that are owned only by one of the spouses. Sometimes, we have all the business interests owned by one spouse in an effort to shield and protect the non-owner spouse for potential liabilities associated with the business. Now we might want to re-think this approach, and we may want to consider transferring stock or LLC interests over to the non-owner spouse to take maximum advantage of each spouse's \$50,000 net business income deduction.

Of course, before we restructure ownership of any closely-held business, we need to make sure

we consider current marital status of the spouses and whether the transferee spouse might have judgments or creditor claims.

Again, the new North Carolina business income deduction does not apply to C Corporations. So, now also may be a good time to consider converting from a C Corporation to an S Corporation to take advantage of the new North Carolina deduction. Of course, there are many other tax considerations to keep in mind when converting from a C Corporation to an S Corporation, but this new North Carolina business deduction makes this a great opportunity to consider C Corporation to S Corporation conversions.

For more information, please contact the following Carruthers & Roth, P.A. attorney:

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