

Business Tax Loophole: Leasing Assets To Your Corporation.

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While there are many equally valid reasons to incorporate, saving money on taxes is a consideration that can yield relatively immediate results. Leasing assets to your corporation is a tax strategy you should absolutely consider if you already have a corporation or are thinking about forming one. Here's how it works.

Just because you incorporate doesn't mean that the corporation must own all of the assets it uses. In fact there are many legal, tax and financial considerations for NOT having your corporation own its own assets.

Leasing assets to your corporation is a perfectly legal and advantageous way to reduce your overall tax liability. When you lease assets to your corporation, the business pays a lease or rental payment and you in turn claim the lease or rental income. By doing this, you as the lessor get to deduct items such as acquisition interest, depreciation, repairs and maintenance, insurance and administrative costs.

When interest and depreciation deductions are exhausted you can then transfer the assets to a family member in a lower tax bracket or you can sell the assets to the corporation. A sale to the corporation would give it a higher tax basis (cost) than it had in the hands of the lessor (you). This would increase the corporation's depreciation deductions, thereby reducing its tax liability.

If you haven't noticed already, leasing assets to your corporation is a fabulous way to pull money out of the business

instead of through payroll. When you take a paycheck, you've got payroll deductions to consider. Not so when you take a rent check.

Another reason to lease assets to your corporation has to do with double taxation. If your corporation sells appreciable assets for a big gain, and you try and take the money out of the company, you will get clobbered with taxes...twice. This will not be the case if you lease the asset to the corporation. Under this scenario, you will only be taxed once.

From a legal standpoint, it's also better to have your corporation own as little assets as possible if you are in a "high risk" industry subject to lawsuits. If you lease assets to your corporation and your corporation gets sued, it's tough for a hostile party to seize the assets if they are in your name and NOT the corporation's.

You may rent almost any asset to your corporation. Examples include, office space, machinery and equipment, vehicles, computers and peripherals and real estate.

Besides renting the assets personally, you may use a multiple entity arrangement such as partnerships, S corporations or limited-liability-companies to rent the assets to a corporation. However, you shouldn't use another regular corporation because it may be deemed a personal holding company (where most of its income is from passive income such as rents and royalties, etc.). Personal holding companies are subject to a penalty that would defeat any tax savings rental strategy.

The requirements for leasing assets to your corporation are as follows:

* You must draw up a formal and bona fide lease agreement. You should treat the leasing agreement just like you would if you were dealing with an unrelated party.

* The rental amount you establish must be fair. In other words, you can't charge anything you want. It has to be reasonable and in line with what's being charged for rental of similar assets in your area.

So there you have it, more good reasons to operate your business as a corporation. My final piece of advice is this: Make sure you consult with your attorney and tax advisor before making any important legal or financial decision. As with most things legal or tax-related, there are many exceptions and special rules that apply. Your attorney or tax advisor will be able to advise you correctly based on your own unique circumstances and objectives.

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