Planning for Year-end Stock Sales

Dec. 16, 2010

NEW YORK — Many individuals may have large gains in stocks, bonds, mutual fund shares and other investment assets due to the stock and bond markets performing well in 2010. Bob Rywick, senior tax analyst at the Tax & Accounting business of Thomson Reuters, said "these taxpayers should consider the benefits of selling appreciated assets this year, because the maximum tax rate on capital gains may be lower this year than next."

For 2010, long-term capital gains, applicable to stocks and other securities, are taxed at a maximum rate of 15% (0% to the extent the gain would otherwise be taxed at a rate below 25% if it were ordinary income), while short-term capital gains and ordinary income are taxed at a maximum rate of 35%. Unless Congress extends the current law, under the "Bush tax cuts," it will "sunset" and long-term capital gain will be taxed at a maximum rate of 20% (18% for assets held more than five years) and short-term capital gains and ordinary income will be taxed at a maximum rate of 39.6%.

"Based on the foregoing, taxpayers with appreciated assets could benefit by selling them in 2010 since there's a possibility that the tax rates on capital gains will increase in 2011," said Rywick. "Even if a taxpayer expects the assets to continue to appreciate, that taxpayer could sell and immediately repurchase them. The gain would be taxed in 2010, and the taxpayer would get a new basis that would reduce the amount of gain taxable if the assets are sold after they have appreciated further in value." There would, however, be the expenses of sale to take into account on each sale. The "wash sale" rules, that apply to prevent a taxpayer from taking a loss on a sale if substantially identical property is purchased within 30 days before or after the sale, do not apply to prevent a taxpayer from immediately repurchasing property that

in excess of total capital gains as a deduction against ordinary income to compute adjusted gross income. “Therefore, to the extent consistent with good investment strategy, individuals should try to have long-term capital losses offset short-term capital gains and/or ordinary income before they are taken into account to offset long-term capital gains,” said Rywick. “This requires taking the long-term capital losses in a year in which they would exceed long-term capital gains.”

For example, an individual with net short-term capital gains and net long-term capital losses in 2010 should consider deferring taking long-term capital gains until 2011, so that the long-term losses will offset the higher-taxed short-term gains. The taxpayer would benefit from doing this even if the long-term capital gain rate is higher in 2011 than in 2010. This is because the short-term capital gain would be taxed at a maximum rate of 35% in 2010 and the long-term capital gain would be taxed at a maximum rate of 20% in 2011. The taxpayer should also consider deferring taking short-term capital losses until 2011 when it is possible there might be other short-term capital gains taxed at a higher rate than in 2010 to offset those losses.

Rywick also cautions that “a taxpayer should hesitate on deferring taking long-term capital gains or short-term capital losses on investments until 2011 if the individual believes there is a good chance that the value of the investment will go down before it can be sold in 2011, therefore reducing the gain or increasing the loss on the sale.”

Additionally, a taxpayer who believes there is a good chance that an investment, with a paper loss, will increase in value before it could be repurchased without violating the wash sale rules, should consider whether the benefit of selling the investment at a loss is worth the risk of losing the expected gain. However, it may be possible for a taxpayer to preserve an investment position while realizing a tax loss by 1) buying more of the same securities, and selling the original holding 31 days later; or 2) selling the original holding and buying similar securities in different companies in the same line of business that the taxpayer expects would rise or fall in

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