FLASTER GREENBERG
Attorneys at Law | A Professional Corporation

Tax Law

At Flaster Greenberg we take seriously the desire of our clients to legitimately minimize their taxes. Founded more than 45 years ago as a "tax boutique," today federal and state taxation continues to be an important focus in our firm. Whether this means counseling a large corporate client as to the intricacies of a tax-free reorganization, a real estate developer or investor as to the means of achieving capital gain rather than ordinary income tax treatment, or an individual seeking to preserve wealth for his or her children and grandchildren, the skills and experience of our attorneys as tax advisors is a valuable and pragmatic resource for our clients.

Continue reading to learn more about the many ways our New Jersey, Pennsylvania, and Florida tax attorneys can help you.

Business Formation & Tax Considerations

In choosing a form of legal entity, tax considerations play a prominent role. S corporations, C corporations, general partnerships, limited partnerships, limited liability partnerships, limited liability companies—each entity has unique federal and state tax characteristics. Owing to their close familiarity with these characteristics, our attorneys can advise the entrepreneur on the choice best suited for his or her purposes. In some instances, we may recommend a hybrid entity, such as a limited partnership with a limited liability company serving as the general partner, to achieve maximum tax benefit.

Defending Collection Actions

Situations sometimes arise where a taxpayer's liability is clearly established, and the IRS and state tax authorities pursue collection actions. These actions, which may include a lien on the taxpayer's assets, levy of bank and brokerage accounts, the seizure of personal property, levies on wages, a forced closure of the client's business, or a forced sale of the taxpayer's home, can have severe financial and psychological impact. Our attorneys frequently assist clients in stopping the collection activity to achieve a resolution of the outstanding tax debt. Techniques that may be used include installment payment plans, hardship and collection due process filings, statute of limitation defense assertions, innocent spouse relief, Offers in Compromise and in some cases, bankruptcy filings. These techniques can enable the taxpayer to satisfy the tax debt over a long period of time or even discharge the taxes completely.

Attorneys

Courtney E. Dolaway
Stephen M. Greenberg
Joseph M. Hayes
Matthew J. Meltzer
David S. Neufeld
Steven S. Poulathas
David Shechtman
Alan H. Zuckerman

Entering or Leaving a Business

Tax consequences frequently come into play when a person joins or leaves an existing business, and the manner in which the transaction is structured can determine whether these consequences are favorable or unfavorable. For example:

- An employee who receives stock options may realize dramatically different tax consequences than a colleague who receives so-called "restricted stock."
- An investor who receives straight equity in a startup business may realize very different results than the same investor receiving convertible debt.
- A physician or other professional acquiring an interest in an established practice may pay much more if he simply purchases stock than if the transaction is structured with taxes in mind.
- An individual selling stock in an S corporation can face significantly different tax results depending on whether an election is made in connection with the sale.
- An individual who retires from a partnership can face vastly different tax consequences depending on whether the transaction is treated as a "sale or exchange" rather than a "liquidation."
- An individual purchasing an interest in a partnership can greatly improve his tax position by making a simple election.

In these situations, and many more, the parties can lower the total cost of the transaction through effective tax planning. At Flaster Greenberg, this is an integral part of our practice.

Family Business Succession Planning

In most family owned businesses, there comes a time when the older generation is ready to pass the torch to the younger generation. In some situations, the transition will happen in a single transaction, while in others it may happen over a period of years, with the parent transferring a majority of the equity in the business while retaining control through a special class of voting stock or other mechanisms. No matter what form the transaction takes, minimizing income taxes as well as estate taxes is of great importance. Indeed, the ability to reduce the family's overall tax burden can make the difference between a successful transition and one that leads to a breakup of the business.

Limited Liability Companies (LLC) and Partnerships

The limited liability company, or LLC, has become an enormously popular business vehicle and for good reason. The LLC combines the shareholder protections traditionally associated with corporations with the "pass through" tax treatment traditionally associated with partnerships—and to this attractive combination adds a unique degree of flexibility. However, the LLC, which is generally treated as a partnership for tax purposes, can create serious traps for those unfamiliar with the intricacies of partnership taxation. For example, if the agreement among the members does not reflect the special rules governing allocations of partnership income and loss, the members may find their entire economic arrangement turned upside down. In addition, the structure of the LLC will determine whether other taxes apply, such as tax on self-employment income. Our tax attorneys have the knowledge and experience required to realize the potential of this innovative business tool.

Mergers and Acquisitions

Mergers and acquisitions are among the most complex transactions from a tax perspective, offering great opportunities as well as significant pitfalls for the unwary. Among the issues that must be addressed:

- Whether the purchaser will be entitled to deduct the payments made to the seller and, if so, when
- Whether the seller will be taxed at capital gain or ordinary income tax rates
- How the purchase price will be allocated among various classes of tangible and intangible assets, and the tax implications of each allocation
- Whether the "goodwill" value being purchased belongs to the corporate seller or to the individual shareholder(s)
- Whether the transaction can or should be structured as a tax-free reorganization
- Whether the seller can defer a portion of the taxable gain by reporting the sale using the installment method of tax accounting
- How state and local sales taxes will apply
- How the transaction will affect net operating losses of the seller, and whether these losses will be available to offset post-transaction income of the purchaser

In merger and acquisitions as in perhaps no other area, the slightest change to the form of a transaction—a change having little or no effect from a business perspective—can have an enormous impact on the tax results. Effective tax planning is therefore essential.

Private Letter Rulings

To be 100 percent certain of the tax consequences of an important transaction, it is sometimes prudent to obtain a private letter ruling from the IRS in advance. Flaster Greenberg attorneys are experienced in advising clients on the situations that may warrant such advance rulings and in applying for and obtaining such rulings from the IRS.

Structuring Settlements

The proper structuring and allocation of proceeds to be paid and received as the result of the settlement of a lawsuit or other dispute can make a significant difference to the tax consequences of the payment. We have substantial experience with structuring settlements to achieve the best tax results for our clients, and work closely with the litigation attorneys in this regard.

Tax Controversy

Our attorneys have substantial experience in handling federal and state tax disputes of all kinds. This ranges from involvement at the audit level, to administrative appeals with the IRS Appeals office and similar state tax authorities, to actual court litigation. We work closely in these matters with our clients' accountants and other advisors. Examples of recent disputes include:

- Deductibility of certain expenses
- Defending corporate officers against personal liability for unpaid payroll and sales taxes
- Defending out-of-state businesses against imposition of state income taxes on grounds of insufficient nexus
- Determination of a partner's gain on sale of a partnership interest
- Disputes involving independent contractor versus employee status
- Innocent spouse relief

Effective tax planning can frequently avoid disputes. When disputes arise, however, we are prepared to defend vigorously the interests of our clients.

Tax Planning

Too often, "tax advice" amounts to no more than explaining how to report a transaction that has already occurred. Our attorneys understand that such advice is likely to be no more effective than designing a house after the foundation has already been poured. We know that most business transactions can be structured in more than one way, and that two structures reaching the same business result can have dramatically different tax results. Consequently, we work with clients at the earliest stages of a transaction, seeking to understand the business goals of the client and thereby ensure that tax consequences are carefully weighed and considered. This early intervention, proactive approach to tax matters gives our clients the opportunity for substantial tax savings.

Expand the menu below to learn more about our New Jersey, Pennsylvania, and Florida tax attorneys.