



Staying a Step Ahead of the Tax Man

By Mary Ellen Biery, December 13, 2011

Guest columnist Mary Ellen Biery offers these tips to small business owners on how to ensure that your business stays on the right side of the IRS while maximizing tax savings.



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The IRS audits a higher percentage of businesses with assets below \$50 million than businesses above that level, according to data from Syracuse University. With that in mind, and with 2012 fast approaching, now's a good time for small businesses to consider an end-of-year legal review to pinpoint and improve areas of potential risk, according to online legal-help company Rocket Lawyer.

Rocket Lawyer founder and executive chairman Charley Moore says a good tax attorney can help you save on taxes and stay on the right side of the IRS.

“With the potentially devastating risk of an audit always around the corner, getting the right tax advice should be a top priority for small businesses,” he said.

Here are five legal tips from Rocket Lawyer to help avoid a tax audit, maximize tax savings, and get extra liability protection in 2012:

1. Incorporate on January 1. Incorporating can provide potential tax savings and liability protection, but the best time to do so may be the start of the new year, Moore says. Filing with an official incorporation date of Jan. 1 could save you time when you file a tax return for 2012, because the business doesn't need to file two separate tax returns (one for the unincorporated entity and one for the new C-Corp, S-Corp or LLC).
2. Select your business structure with both liability protection and tax savings in mind. Many owners choose to incorporate as an S-Corp, a C-Corp or an LLC based on potential tax savings, but Moore says you should consider your liability protection, too. Speak not only to a CPA but also an attorney; you may find that opinions vary.
3. Choose carefully when giving someone authority. Whether it's the business owner or the signatory, individuals in positions of responsibility are personally liable for both unpaid taxes and penalties associated with non-payment. Before you put your spouse, children or other employees in positions of authority, make sure you understand all of the potential consequences.
4. Be careful when classifying new hires as employees or independent contractors. Companies sometimes try to have it both ways, sending a big red flag to the IRS, Moore says. To help avoid this, think about the role you want the new worker to fulfill, and look at the long-term tax consequences of worker classification from the

outset. Then put the appropriate relationship in writing with an agreement, and act consistently with that agreement, from paying payroll taxes, if applicable, through claiming tax credits. “An attorney’s advice can be extremely helpful for getting the tax savings you deserve while staying in the good grace of the IRS,” Moore says.

5. Prepare to track 2012 expenditures, and get ready for rising costs. The Joint Taxation Committee has recommended cuts to charitable deductions, mortgage interest deductions and state and local tax deductions. Moore says the likely effect of such changes would be higher costs for business and “a significant fall-out for the mortgage real-estate and non-profit sector.”

For the full story by Sageworks’ Mary Ellen Biery, please visit [CNBC - Staying a Step Ahead of the Tax Man](#)