

# AHERN ADVISORY

## Post Election

**Since the results of the November 2 election, I've been inundated with emails and telephone calls about how I think this election will impact the trucking industry. I**

certainly don't have a crystal ball, but I do believe that (under the circumstances) several things are going to happen:

- I don't believe that taxes will increase in 2011.
- The most likely scenario is that the Bush tax cuts, including the 15% top rate on long term capital gains and corporate dividends, will continue for all filers.

**Therefore, most people will benefit by accelerating their deductions in 2010 rather than in 2011 and deferring income until 2011.** If you're a trucking company, or an S corporation and you expect to be in a higher tax bracket in 2011, **consider the opposite....accelerating income and delaying deductions.**

**In reference to state and local income taxes; mailing your 2011 estimate in late December, let's you claim the deduction this year.** Making a January mortgage payment on your residence before the end of the year, enables you to deduct the interest portion in 2010.

**If you're considering any elective medical procedures, consider getting and paying for the elective procedure in 2010.** In reference to donations, those planned for next year can be accelerated for this year, but you must charge them or mail the checks by December 31, to insure a write off for 2010.

**If you plan to switch from an IRA to a "Roth" do so this year for the tax advantage.** The tax on 2010 conversions can be deferred and spread out over 2 years. **You can have 50% of the conversion income taxed in 2011 and the balance in 2012;** or, you can elect to pay the entire tax liability in 2010.

**The independent contractor dilemma facing our industry, is getting worse.** Recently, the Kiplinger report, stated "look for IRS to strengthen their fight over misclassified workers." **For example; Pennsylvania is the most recent to enact legislation focusing on misclassification of employees.** The law, which is currently limited to the construction industry, imposes civil penalties on businesses that have improperly classified their workers. **Criminal penalties will apply for cases of intentional misclassifications.**

**Several other states have passed laws to penalize firms that misclassify, including CO, CT, DE, IL, MD, MS, MN, NE, NJ, NM, NY and WI.** Expect more states to enact similar laws in the coming year.

**In reference to the trucking industry;**

- IRS is currently targeting smaller trucking companies, (initially).
- When they build up their case law, they will pursue larger firms.

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# THE AHERN ADVISORY

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Ahern & Associates, Ltd.

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**I've stated, in previous newsletters, that;**

- Have you independent contractor agreement reviewed, immediately.
- **“Tighten up” the independent contractor provisions, and;**
- **Distance yourself by considering utilizing a Professional Employer Organization to further distance yourself from exposures, in the future.**

**The IRS is beginning to get a handle on tax invasion by networks of businesses, including transportation; according to the Government Accountability Office.** IRS agents are using new software to display tiers of related, past-through entities that can function as tax shelters. **High net worth individuals are going to be targets in the future.**

**It's my opinion that buyers of heavy SUV's will be able to exercise a 50% bonus depreciation return for 2010;**

1. If you purchase a new SUV by December 31, 2010.
2. If the SUV is over 6,000 pounds.
3. The total first year write offs can be sizeable.

**For example;**

- If you purchase a \$50,000 SUV (with a loaded weight of over 6,000 pounds);
- You can expense \$25,000 for the vehicle.
- You can claim an additional \$12,500 as bonus depreciation.
- The normal depreciation is the balance of a \$12,500, and;
- **The first year total “write offs” approximates \$40,000 – assuming 100% is business use.**

**With the implementation of CSA 2010, several things will happen to our industry;**

- Capacity will continue to shrink.
- That will offer trucking companies, that are properly prepared, to take advantage of the capacity shortage with an increase in freight rates.
- Shippers are already starting to experience capacity issues, and it's only going to get worse;
- Although the economy will continue to sputter for the next 12 – 18 months, and;
- **Although unemployment will continue to hover around 9.5% - 10%; I predict that 2011 will be a strong financial year for the trucking industry.**

**There is much controversy about reporting everything over \$600.00 for the 2011 tax year.** There is some good news for business owners who cash customer checks over \$10,000;

- According to IRS (privately), you do not need to file form 8300.
- Apparently, if you receive payment in a business check, form 8300 is not required because the check isn't treated as cash.
- **The subsequent cashing of the check isn't directly related to the original sale.**

### My personal economic forecast for the balance of 2010 and 2011;

- GDP will average 2.8% growth in 2010.
- According to the Kiplinger report, it should pick up to approximately 3.1% in 2011.
- Interest rates will hover at prime, which is currently 3.5% until late 2011.
- 10 year T notes will be 3.5% until late 2011.
- There will be a strong “push” to repeal the new Healthcare mandate. If the program is not modified or nullified, the health reform bill will cripple businesses.
- The Feds will continue to “hold” prime rate lending at historic lows hoping to “jump start” the economy.

### Inflation will rise, somewhat, in 2011. The reoccurring question I receive from my readers is; are the banks going to start financing small trucking and logistics companies! No! As of October of this year;

- Banking regulators closed a total of 139 banks.
- Several weeks ago, banking regulators closed an additional 6 institutions, and;
- Each time that an institution is closed, some depositors suffer losses.

### We have been led to believe that if the Federal Government steps in and closes a bank;

- The FDIC will cover depositors funds (up to \$250,000), but;
- What they don't tell you is there are many depositors who have funds that exceed \$250,000 and that money is lost forever.
- It is not insured and it will impact small businesses.

### The Office of Thrift Supervision, recently closed a bank in Arizona; First Arizona Savings.

- This was a case where the FDIC could not convince another bank to assume the deposits.
- Unfortunately, some depositors were left with less than 100% of their equity.
- Arizona depositors stand to lose \$1.8MM in uninsured deposits, after the closure of First Savings, by bank regulators.
- Yet, the FDIC forgot to advise the depositors that the institution had nearly \$199MM in total deposits, and the bank had \$272MM of assets.

### For a small to medium size trucking/logistics company that cannot obtain traditional financing, they have other options to pursue, such as:

1. Agency contracts;
2. Partnership programs.

### This is a program where “the partner” will provide receivable and working capital, as part of the overall services they offer.

### The next 12-18 months, I believe are going to be strong for the trucking industry, particularly for carriers/freight brokers that “think outside of the box.”

- Capacity will continue to “tighten”.
- Drivers will become a more valuable commodity, and;
- CSA 2010 will place many small carriers, not in compliance, and;

- The ease of access, for a shipper, to review a carrier will dramatically impact our industry.

**For carriers that are properly prepared this will offer opportunity, opportunity, and opportunity!**

**In closing, taxes will rise eventually, and you need to be prepared for that; there is no way that the government can continue to spend money,** and expect to ever balance the budget if taxes do not go up.

**QUOTE OF THE WEEK: “There are no such things as problems, just circumstances- and you get over them!”** (Shawndya I. Simpson)