

LEIMBERG'S THINK ABOUT IT

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LEIMBERG'S 1040 TAX TEMPLATE -- 2005: USING THE INCOME TAX RETURN TO SPOTLIGHT FINANCIAL SECURITY NEEDS

It may not be time to file individual income tax returns – but this may be the best time to think about income tax planning. Your single most important task is to help clients identify and solve their financial security needs and objectives. What tool is more appropriate for identifying and emphasizing the urgency and significance of solving those problems than the IRS FORM 1040? Income taxes, by far, are one of the most common concerns for everyone. Everyone is asking: "What can I do so I will not have to pay so much tax – next year?"

You will find a reliable source of potential life insurance, estate, and employee benefit planning opportunities and an incredible data gathering tool if you use my "1040 TAX TEMPLATE – 2005."

Your examination of a client's income tax return may point out a need for education funding, a life, health, disability, or long-term care insurance coverage review, as well as other financial, retirement, employee benefit, estate, and charitable planning needs. (Note that the same principles you employ here should be applied to the client's business tax return.)

STEVE LEIMBERG'S 1040 TAX TEMPLATE - 2005

Use my 1040 TAX TEMPLATE - 2005 as a checklist to determine your client's financial and estate planning problems. Tailor or adapt my planning checklists, questions and comments to your style and your client's circumstances as indicated on Form 1040.

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IMPORTANT: Remember to comply with your company's rules, applicable state law and NASD regulations in gathering data and in the statements you make.

LABEL: At the top of Form 1040, the taxpayer is asked to attach a "Label" with his/her name and address, and provide his/her social security number. The taxpayer must also provide his/her spouse's social security number (if married and filing jointly)

Planning Checklist:

1. Have you recently checked your earnings and/or benefits with the Social Security Administration – in writing?
2. Does your disability income insurance provide specific coverage for "your" occupation (e.g., "surgeon")?
3. Do you know if your occupation (e.g. contractor) requires special liability insurance coverage (e.g., for "contractor")?
4. Switched employers? Have you extended your medical insurance coverage under COBRA?
5. Have you moved in the last year? Did you sell your prior residence? Are you holding the prior home as an investment? Is there adequate insurance to pay off any debt on your real estate holdings?
6. Do you have adequate property and casualty insurance coverage on your new home?
7. Is the mortgage on your new residence sizeable enough to warrant a reduction in withholding?
8. Did you move from another state? Have you updated your will and other state-law sensitive documents? Do you have community (or common law) property?

FILING STATUS: The taxpayer must state whether he/she is single, married, a head of household, or widower/widow.

Planning Checklist:

1. Single? You are not entitled to a marital deduction. Have you considered marital deduction substitutes?
2. What tax savings plan do you (or you and your spouse) have?
3. Have you checked to see if a change in filing status (e.g., head of household vs. single or married with two incomes filing separately) can lower your taxes?
4. How will the bills be paid – if you (or your spouse, if two-income family) should become disabled?
5. Are you and your spouse both U.S. citizens?
6. Do you (and your spouse each) have a will? How recently was it updated?
7. Has there been (or will there soon be) a change in your marital status?

8. Divorce during the year? Have you reviewed ALL your beneficiary designations in all employee benefit plans and other dispositive documents? Have you checked your insurance coverage since the divorce? Are the types of coverage and amounts adequate/appropriate?
9. Is your (or your spouse's) occupation/business interest "liability prone?" To the extent possible (legally and economically), should assets be re-titled to exempt or protect your (and/or your spouse's) property? Should other asset protection planning measures be taken?

EXEMPTIONS: For this part of the tax return, the taxpayer lists his or her dependents (including himself or herself). This will alert the planner as to whom the client is responsible for, and set the stage for financial and insurance planning. For example, be sure to consider 529 plans and the deduction for interest on education loans.

Planning Checklist:

1. Would your family have enough income if you should die tomorrow? Or, (for two-income family) if your spouse were to die?
2. Would you (or your family) have adequate cash flow to meet fixed expenses if you (or your spouse) should become disabled?
3. Apart from your children, do you (and/or your spouse) have other dependents? What has been done to protect them if you (or your spouse) should die?
4. Have you started to plan for college education of your child/children? If so, how much are you setting aside each month (or gifting each year)? Are the funds held in tax-advantaged vehicles such as Section 529 plans?
5. Are you making (maximizing) annual exclusion gifts to your children and/or grandchildren? What income splitting devices are you using to shift income to your children's (or grandchildren's) lower bracket? Have you considered using a UGMA/UTMA or a 2503 (c) trust? Family Limited Partnership?
6. Have you considered regular or Roth IRAs for your working-age children who have earned income?
7. Are your children employed in the family business? Have you considered Family Limited Partnership, LLC, or other income-shifting and/or wealth transfer planning techniques?
8. When was the last review of your (and spouse's) will and trust, life insurance policy (or policies), retirement plans, et cetera?
9. Are the ownership and beneficiary designations of your life insurance policy (or policies) up-to-date?
10. Are the beneficiary designations of your IRA, retirement plan, group insurance (or other employer-provided benefits) up-to-date? How recently have you checked?
11. Have you prepared for costs of long-term care – for yourself, your spouse and/or parents?
12. Do you have up-to-date durable powers of attorney and living trusts?

INCOME: Wages, taxable, tax-exempt, dividend, business income, alimony received, and other sources of income are shown here. Wages are indicative of the level of retirement and employee benefits the taxpayer has and help to indicate his or her insurance and estate liquidity needs. Wages raise estate, employee benefit, and financial planning issues. Wages/compensation also help identify key employees.

Planning Checklist:

1. Do you expect any major increases (or decreases) in income in the next few years?
2. Are you maximizing your contributions to 401(k) or other tax deferral techniques to decrease your taxable income?
3. Have you considered investing an increasing percentage of your salary rather than fixed amounts? Have you done any cash flow analysis/planning to increase your "investible" income?
4. Is your investment capital pool large enough for an emergency or opportunity?
5. (For owner/employee.) Have you considered lowering/raising your salary to minimize your overall tax liability?
6. Do you know how rapidly Table I costs for group term life insurance and split dollar plans increase at older ages? Would it make sense to "carve out" top executives' benefits and set up individual insurance coverage for yourself and your key people?
7. When do you plan to retire? Is there a business succession plan for your family business when you retire (or die or become disabled)? Is there a buy-sell in place? Is it "funded?" If so, how and how much of it is it funded?
8. (Business interests and high income levels.) Have you checked your potential estate tax liability?
9. Are you aware of the probate problems when your properties are located in more than one state?
10. Did you receive – or pay – alimony? What kind of cash flow and financial obligations do you have with respect to such payments?

ADJUSTMENTS TO INCOME: The taxpayers lists his/her (and spouse's) IRA deduction and/or Keogh (HR-10) and self employed SEP deduction, and alimony payments.

Planning Checklist:

1. Do you have a deductible IRA? Does your spouse have one? How about your children with earned income?
2. Why haven't you set up a SEP-IRA or an HR-10?
3. Have you considered incorporating your business or forming an LLC, for example, to reduce your business liability exposure?

TAX COMPUTATION: This is where the taxpayer applies the rates to his/her taxable income.

Planning Checklist:

1. Do you know your combined federal and state tax bracket?
2. What have you done to reduce income taxes?
3. Should more of your assets be held in tax-exempt or tax-deferred investments or in deferred annuities?

CREDITS: At this point the taxpayer lists credits for adoption expenses, child and dependent care expenses, or credit for the elderly or disabled as well as a credit for a prior year minimum tax.

Planning Checklist:

1. Would you be able to continue to care for a child (who is disabled or has special needs) if you (or your spouse) should become disabled or die?
2. Do you have an FSA (flexible spending account) for dependent care expenses?
3. Is it feasible for you to set up a trust to care for your dependents?
4. Are there more cost effective ways to provide financial security for your dependents?
5. What have you done to protect assets from the claims of your creditors?
6. Do you have an up-to-date durable power of attorney? Does your spouse?
7. Do you (and your spouse each) have an up-to-date living will?

OTHER TAXES: This category includes self-employment tax, the alternative minimum tax, and the tax payable on IRA(s) or qualified retirement plan(s) or group insurance.

Planning Checklist:

1. Do you understand what the AMT is and how it impacts on your tax liability?
2. Do you know how, or have you done anything, to control the timing of items that generate AMT?
3. Have you considered changing depreciation methods to reduce or eliminate "preference items?"
4. Would you like advice on reducing or eliminating the tax on an IRA or pension distribution?
5. When did you last update your umbrella (excess liability) coverage?
6. What planning have you done – in addition to your employer's plan(s) – to provide for your retirement?
7. What is the beginning date for your retirement distribution?
8. Have you thought about naming a charity as beneficiary of your retirement plan/IRA?
9. Do you know if your group life insurance benefit will be includible in your estate?

MEDICARE PREMIUM: Medicare premium costs are shown here.

Planning Checklist:

1. Do you have an up-to-date living will or advance healthcare directive?
2. Do you have an up-to-date durable power of attorney?
3. Does your executor and/or your spouse or children know where your key documents are located?
4. Do they know the names and addresses of advisors, the location of life insurance policies, and safe deposit boxes (and keys), etc.?

PAYMENTS: This is where the taxpayer shows the federal income taxes withheld, estimated taxes paid, the refundable earned income credit, or excess social security taxes paid.

Planning Checklist:

1. Do you know that over-withholding is like making an interest free loan to the IRS?
2. Would you like information on how to figure the proper number of withholding exemptions?
3. Is your withholding sufficient for next year (approximately 90% of what you owe)?

REFUND OR AMOUNT YOU OWE: The moment of reckoning. The taxpayer either over-paid and will receive a refund, under-paid and will pay a penalty, or passed the "three bears" test (amounts withheld were "just right"). A refund might be used to begin an education or retirement plan, to purchase life insurance, or protect the taxpayer's income through disability income insurance. If the taxpayer receives a large overpayment, it may indicate the need to confer with his or her CPA regarding a reduction in withholding, and use those freed-up monthly dollars to meet his/her planning goals.

Planning Checklist:

1. Have you budgeted enough money to pay your taxes? (Do you have a budget?)
2. Have you planned how you are going to invest your refund?
3. Have you considered accelerating your mortgage payments?
4. Have you over-paid Social Security taxes? (If the client works for more than one employer, he/she may need to apply for a refund.)

SCHEDULES A & B: These schedules show the taxpayer's itemized deductions, interest and dividend income.

Planning Checklist: (Schedule A)

1. Do you (and your dependents, if any) have adequate medical insurance?
2. Have you looked into post-retirement health care coverage and long-term care insurance (for yourself, your spouse and parents)?

3. Do you have a "fund" to cover medical costs that are not covered by insurance?
4. Is there nondeductible "consumer" (e.g. credit card) interest you can reduce or eliminate?
5. Do you have cash (or have you considered a home equity loan) to pay off your non-deductible interest debt?
6. Did you refinance your home mortgage? Would refinancing now make sense?
7. Could you prepay the first installment of next year's property taxes?
8. Have you considered buying a home rather than renting? (If no real estate taxes shown.)
9. Do you have insurance that would pay off your mortgage if you should become disabled or die?
10. Would you be interested in "leveraging" your charitable gifts?
11. What do you know about charitable remainder trusts and what they can do for you as well as the charity you want to benefit? Do you know how charitable lead trusts work?
12. Have you considered gifts of appreciated property? How about gifts of life insurance?

Planning Checklist: (Schedule B)

The types and levels of investments – as indicated by a taxpayer's interest and/or dividend income – can provide a wealth of information pertaining to: risk tolerance, asset diversification, financial sophistication, and the degree to which the investment portfolio has been inflation proofed. It may indicate the need to reposition assets to achieve more tax-exemption, tax-deferral, long-term growth, higher income, or creditor-protection.

1. Are you maximizing the "use" of your cash, and earning adequate interest on your checking account? (How much?)
2. Do you have too much – or not enough – cash? (Do you have adequate liquidity?)
3. Should some of your money be invested in tax-free or tax-deferred investments?
4. How large is your investment portfolio? (Does the performance meet your expectations?)
5. Is your portfolio properly diversified? Or, is a sizeable portion of your investment income from just one source? (Need to diversify?)
6. Do you worry about the investment risk you are taking?
7. Is your portfolio too conservative? Have you considered repositioning some cash into mutual funds to increase "safety?"
8. Have you properly timed mutual fund purchases to avoid immediate taxable distributions?
9. Are your assets allocated in a way that will minimize federal estate taxes?
10. What percentage of your investment income is from fixed income sources? Have you considered "inflation proving" your investments?

SCHEDULE C: The taxpayer lists profit or loss from a sole proprietorship on this form. Profit and loss from partnerships and joint ventures would be shown on Form 1065. You should discuss with your client/prospective client such issues as legal liability and double taxation with respect to possible asset protection strategies and the appropriateness of choosing an alternative legal form of business entity.

Planning Checklist:

1. Have you considered splitting income by using an S corporation, an FLP, LLP, or LLC type of business entity?
2. Could incorporation (or forming an LLC) provide you with better creditor-protection and lower tax exposure?
3. Have you considered gifting a business asset to your children and then leasing it back?
4. Have you considered employing family member(s) in your business?
5. When did you last check the adequacy of insurance on your business property?
6. Will your disability cripple the business?
7. Will your business die when you retire (or die)? Or, do you have a succession plan?
8. Have you looked into ways to reduce your self-employment tax? Are you making the maximum contributions to your company's retirement plan?
9. Are you using H.R. 10 (Keogh), SIMPLE, or SEP for retirement plans?
10. Are you on track in funding your retirement income? Are you making the maximum contributions to your company's retirement plan?
11. Are you concerned about exposing retirement benefits to claims by potential creditors?
12. Have you checked the qualification for "special-use valuation" for your business?

SCHEDULE D: Here, the taxpayer lists his/her capital gains and losses.

Planning Checklist:

1. What is the average rate of return on your portfolio in the last three years?
2. Do you expect to do better (or worse) in the next three years?
3. Are you satisfied with your portfolio's growth (and income) performance?
4. How do you select your investment options? Do you "allocate" your assets?
5. Have you been keeping careful records of what you are paying for your investments?
6. Do you have any carryover losses you can use next year?
7. Have you ever discussed with your CPA the tax savings potential in "timing" your gains and losses?
8. Will you (or can you) roll over the proceeds from the sale of your home? (If sale of home reported.)
9. Since your new mortgage is much larger, shouldn't we update your cash flow analysis?

10. If you could increase your spendable income by making gifts to charity, would you?
11. Are you aware of the tax and other benefits of donating appreciated assets to charity?

SCHEDULE E: Supplemental income (or loss) from rental and royalty income and related expenses are shown on this form.

Planning Checklist:

1. Why did you decide to invest in these particular business venture/partnership interests?
2. Are you satisfied with the return on your investment – relative to the risk?
3. Has the value of your investment grown as well as you expected?
4. How do you expect your investments to perform: (a) in inflation, and (b) in recession?
5. In terms of your investments, do you feel you have a proper balance between growth and income?
6. Would you consider yourself an aggressive or conservative investor?
7. (If trust income is shown on return.) Do you receive capital as well as trust income?
8. Do you expect any inheritances?
9. Has your estate become more or less liquid? What is the trend during the last 3-year period?
10. Do you have income (e.g. director's fees) that could qualify for HR-10/SEPP contributions?
11. Do you have income that will cease at a given date?

PLANNING NEEDS CHECKLIST

Planning Needs Indicator	Comments
Client Age 50 Or Older?	Retirement/Long Term Care Planning (Urgent)
Minor Child Or Children?	Guardianship Income/Education Needs
Large Estate And Grandchildren?	Generation-Skipping Transfer Opportunity
Net Worth In Excess Of Applicable Exclusion Amount?	Estate Tax Liquidity & Trust Planning
Net Worth In Excess Of Applicable Exclusion Amount?	Sophisticated Estate/Wealth Transfer Planning
Income In Excess Of \$100,000?	Tools & Techniques
Income In Excess Of \$1,000,000?	Income Tax Planning
Retirement Plan Distribution?	Sophisticated Income/Estate & Asset Protection Planning
Large Gift/Inheritance?	Income Tax Planning
Officer/Director Of Corporation?	Estate/Wealth Transfer Planning
No Will/Out-Dated Will?	Business/Personal/Employee Benefit & Asset Protection Planning
Low Basis/High Value Assets?	Income Tax & Estate Planning
	Income Tax & Estate/Wealth Transfer Planning
Business Without (Or Outdated Or Underfunded) Buy-Sell?	Business Succession & Estate/Wealth Transfer Planning
Handicapped (Or Gifted) Child/Spouse?	Trust & Estate Planning
Strong Charitable Inclinations?	Estate/Wealth Transfer/Wealth Replacement & Charitable Planning

Here are some additional points to remember:

- All tax advantages come at a cost. For instance, it is true that home equity loans MAY generate tax deductible interest. But, these loans also entail cash flow risks that may not be appropriate because of the temptation of easy access to equity.
- Ask the client if he or she has ever filed any gift tax returns. The absence of a gift tax return indicates that the applicable gift tax credit has probably not been used.

- Ask the client if he or she takes full advantage of the annual gift tax exclusion (currently \$11,000 per donee) on a systematic basis.
- Discuss the importance of an annual "fiscal" exam and its importance to financial security. If the client has no will and/or trust, this is a good time to point out the impact of intestacy and the consequences of a court-selected administrator for the estate and guardian for a minor child.
- Remember that a recent divorce, disability, or death of a close friend or family member or neighbor or the "reversal of fortune" (or any of the events) will trigger a heightened awareness of, and sensitivity to, the issues discussed above. These events may have significant adverse estate as well as income tax implications that require a review of the client's will, trust(s), and employee benefits for non-tax reasons (e.g. new beneficiary designations, appointment of new or successor executors/guardians, etc).
- Remind the client that beneficiary designations of business and personal life insurance, annuity contracts, and pension and/or profit-sharing plans need to be revisited at least every three years, and immediately upon a divorce or separation. At the same time, it's a good idea to confirm that persons named as guardians, executors, or trustees are alive and still can and will serve, and that bequests remain in accordance with the client's current wishes.
- Check to see if the client is making the maximum (allowable) contribution to his/her retirement plan.
- Look at the client's W-2 to see how much (if any) contribution was made to an employer's 401(k) plan, 403(b) annuity, or SEP, and whether or not the employer provides a pension plan. If only one W-2 is filed, it may mean that the client's spouse has no significant source of income if the client dies or becomes disabled. Is there adequate disability income or life insurance coverage?
- Obtain written permission to access the client's tax return.
- If you also prepare the client's tax returns, you have no choice; Code Section 7216 mandates it. You must have a client's prior written consent to solicit personal financial planning business from income tax return. Fortunately, the statement you give the client to sign need only list (a) the client's name, (b) your name, (c) the purpose for the consent, (d) the date, (e) a statement that information from the return will not be disclosed for any purpose other than to help the client in his or her financial planning, and (f) the consent of the taxpayer.

- Remember, Form 1040 is only one of many documents that should be reviewed for the data gathering process – prior to discussing the planning needs/objectives with your client/prospect, and before forming any meaningful conclusions and recommendations for their consideration. Furthermore, you must also comply with applicable state law and company rules with respect to what you can and cannot say, or do, on behalf of your client or prospective client.

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