

YEAR-END INCOME TAX PLANNING FOR "INDIVIDUALS"

INTRODUCTION

It's once again time for year-end tax planning. This year, planning requires us to navigate through a host of new tax changes. For 2008, we have witnessed new tax legislation at an unprecedented pace. In the last 12 months, Congress has enacted no less than six separate tax bills. For example, on October 3, 2008, President Bush signed the "Emergency Economic Stabilization Act of 2008" which not only extended a variety of popular tax breaks that had expired in 2007, but also contained several new tax relief provisions. Collectively, these recent tax bills contain major changes including several "temporary" economic stimulus provisions such as a new refundable first-time home-buyer credit, a new individual tax rebate/credit, and an enhanced "refundable" child credit. In addition, 2008 is the first year we can take advantage of several other new tax breaks, including: a new additional standard deduction for real property taxes, expanded alternative minimum tax (AMT) relief for incentive stock options (ISOs) and AMT credit carry forwards, and a zero-percent capital gains tax. As 2008 is rapidly coming to a close, time to take advantage of these tax breaks is growing short.

We are sending you this letter to bring you up-to-date on these and other *new* tax planning opportunities for "individual" taxpayers. We also want to remind you of the *traditional* year-end tax planning strategies that **1)** help ensure your income is taxed at the lowest possible rate, and **2)** will postpone taxes by deferring your taxable income and accelerating your deductions.

Be Careful! Moving income from one tax year to another may reduce your personal exemptions and itemized deductions. Moreover, strategies suggested in this letter may subject you to AMT. For example, many deductions are not allowed for AMT purposes, such as: personal exemptions, the standard deduction, state and local income taxes, and real estate taxes. Also, AMT can be unexpectedly triggered by taking large capital gains or exercising incentive stock options. Therefore, **we suggest that you call our firm before implementing any tax planning technique discussed in this letter.** You cannot properly evaluate a particular planning strategy without calculating your overall tax with and without that strategy.

Please Note! This letter contains ideas for Federal income tax planning only. State income tax issues are **not** addressed.

HIGHLIGHTS OF RECENT LEGISLATION IMPACTING YEAR-END PLANNING

As you read the following highlights, please keep in mind that there are several new tax breaks available **only in 2008**, other long-term changes are **first effective in 2008**, while some changes are not effective until later. Consequently, pay careful attention to the **effective date** and **expiration date** (if applicable) for each new provision which we **highlight prominently** in each segment.

Expired Tax Breaks Extended. A long list of popular tax breaks for individual taxpayers was scheduled to expire at the end of 2007. The Emergency Economic Stabilization Act of 2008 (*2008 Stabilization Act*) postponed the expiration dates for many of these provisions, as follows:

- **Selected Expiring Tax Provisions Extended Through The End Of 2009:** **1)** School Teachers' Deduction (Up to \$250) for Certain School Supplies; **2)** Deduction for State and Local Sales Tax; **3)** Deduction (up to \$4,000) for Qualified Higher Education Expenses; **4)** New Real Property Tax Standard Deduction For Non Itemizers, **5)** Qualifying Tax-Free Transfers from IRAs to Charities for Those at Least 70½; and **6)** Increased Charitable Deduction Limits for Qualifying Conservation Easements. **Planning Alert!** Under the technical language of the *2008 Stabilization Act*, the \$500 credit for Energy-Efficient Home Improvements is available for 2007 and 2009, **but not for 2008.**
- **Alternative Minimum Tax (AMT) Relief Extended Through 2008.** Without the *2008 Stabilization Act*, you would have received an AMT exemption of only \$33,750 (individuals) and \$45,000 (married filing jointly) for 2008, and there would have been no AMT offset for many personal tax credits. If these exemptions had not been increased to reflect 2008 inflation rates, IRS says the number of taxpayers paying AMT in 2008 would have increased from approximately 4 million to 25 million. The *2008 Stabilization Act* increased the AMT exemption amounts, **for 2008 only**, to **\$46,200** (individuals) and **\$69,950** (married filing jointly). The Act also extended, **for 2008 only**, the ability to use certain personal credits (including the dependent care, elderly and disabled, HOPE, Lifetime Learning, and D.C. home buyer credits) against the AMT. **Planning Alert!** The items that commonly trigger AMT for individual taxpayers include: high state and local taxes, an unusually large number of dependents, large medical expenses, or the exercise of an incentive stock option. If you anticipate having significant amounts of any of these items, contacting us early will increase our chances of helping you minimize your AMT for 2008.
- **Refundable AMT Credit.** Many companies offer tax-favored incentive stock options (ISOs) as compensation. Under the *regular tax rules*, ISOs are not taxed upon exercise. Under the *AMT rules*, however, upon exercise, a taxpayer must include the excess of the stock value over the exercise price in income. The economic downturn in 2000 resulted in many individuals having to pay tax on "phantom income" because the stock prices dropped dramatically after the date of exercise. Starting in 2007, Congress provided relief for these and other AMT situations by creating a new *refundable* AMT credit for any "long-term unused AMT credit" (i.e., an AMT credit generated more than 3 years prior to the current year). **For tax years 2008 through 2012**, the *2008 Stabilization Act* expanded this new AMT credit (particularly for AMT credits arising from ISOs **exercised before 2008**). **Planning Alert!** Exercising an ISO in 2008 could still generate a 2008 AMT if the difference between the stock's value and the exercise price is substantial. **Tax Tip.** If you exercised an ISO **in 2008** and the stock you acquired has declined in value since the date of exercise, it may be possible to eliminate or reduce your 2008 AMT tax liability if you sell the stock **on or before December 31, 2008**. Please check with us if you have exercised incentive stock options during 2008 and the price of the stock has fallen since the date of exercise. A sale of the stock after December 31, 2008 will not affect your AMT liability for 2008. So, we must act timely for a sale to reduce 2008 taxes!

New Temporary First-Time Home-Buyer Credit (With Pay-Back Requirement). The *2008 Tax Legislation* adds a new temporary refundable credit of up to \$7,500 (whether filing jointly or single) for qualified "first-time home buyers" who buy the house **after April 8, 2008 and before July 1, 2009**. The purchase (i.e., title closing) of your first-time home after April 8, 2008 will qualify even if you signed the purchase contract before April 9, 2008. The amount of the credit is the lesser of: **1)** \$7,500 (\$3,750 if you are married filing separately), or **2)** 10% of the home's purchase price. The credit is phased out as your

adjusted gross income (AGI) increases from \$75,000 to \$95,000 if you are single, or from \$150,000 to \$170,000 if you are married filing jointly. Since the credit is refundable, you will actually get a refund to the extent the credit exceeds your tax liability. However, unlike most refundable credits that you can keep, this credit has an automatic 15-year payback requirement that resembles an interest-free loan that must be repaid to the government. To qualify as a "first-time home buyer," neither you nor your spouse can have owned a principal residence in the U.S. during the 3-year period ending on the date of the purchase of your new principal residence. **Planning Alert!** You will **not qualify** for the credit if you purchase your home from a related party (e.g., certain family members). **Tax Tip.** Your *principal residence* could include a condominium, houseboat, or mobile home.

New Real Property Tax Deduction For Non Itemizers. For **2008 and 2009 only**, if you do not itemize your deductions (i.e., you take the standard deduction), you may claim an *additional* "standard deduction" for any state and local property taxes you pay. Your deduction, however, is limited to \$500 (\$1,000 in the case of a joint return), or the actual real estate taxes you paid, if less. **Planning Alert!** If you are a homeowner and you itemize your deductions on your 2008 return, this new provision will not benefit you. However, if you plan to take the standard deduction for 2008, to get the full \$1,000 additional standard deduction (on a joint return), you must pay at least \$1,000 of property taxes for 2008. If you are sitting on a property tax bill that will help you meet the \$1,000 cap (\$500 if single), be sure that you pay it **before the end of 2008**. **Tax Tip.** This new deduction is available regardless of your income level.

Home-Sale Exclusion Restricted. If you sell your home, you may qualify for the home-sale exclusion which allows you to sell your principal residence and exclude the gain up to \$250,000 (\$500,000 if filing jointly). Generally, to qualify, you must have owned and used the home as your principal residence for at least 2 of the preceding 5 years. Typically, because of the *principal residence* requirement, you cannot exclude any gain from the sale of your vacation or second home. This has lead some taxpayers to convert a second home into a principal residence for at least 2 years before selling the home, thus qualifying the home for the full \$250,000/\$500,000 exclusion. The *2008 Tax Legislation* clamps down on this planning technique for **sales after 2008** by generally requiring you to pay taxes on the portion of the gain that reflects the time the home was not used as your principal residence. **Good News!** This new restriction is not retroactive. Instead, it applies only to sales after 2008. In addition, any periods of personal or rental use before 2009 **are ignored**. **Tax Tip.** If you currently own a second home or rental home and you convert it to your principal residence before 2009, you can generally avoid this new restriction altogether. **Planning Alert!** The actual mechanics for applying this new rule can be complicated. Please call us if you need more information on this new limitation.

PLANNING WITH THE EXPANDED KIDDIE TAX AND THE NEW ZERO % CAPITAL GAINS

"Kiddie Tax" Expanded Starting In 2008. Before 2008, children under age 18 were taxed on their unearned income (e.g., interest, dividends, and capital gains) at their parents' marginal tax rate if the unearned income exceeded a *threshold amount*. This rule is commonly referred to as the "kiddie tax." **Starting in 2008**, the *kiddie tax* has been expanded and becomes more complicated. Under the new rules, a child who *is not filing a joint return with a spouse* will have his or her unearned income in excess of the *threshold amount* (\$1,800 for 2008), taxed at the *parents' tax rate* if: **1)The child either has not attained age 18 by the close of the tax year, OR 2)The child is age 18 by the close of the tax year AND the child's earned income does not exceed one-half the child's support; OR 3)The child is age 19 through 23 by the close of the tax year AND the child is a full-time student AND the child's earned income does not exceed one-half the child's support.** **Planning Alert!** Unlike prior years, starting in 2008, many college students will no longer be able to sell off their appreciated capital gain investment accounts set up by their parents to cover tuition and pay tax at the student's lower tax rates. Furthermore, most college students under age 24 will generally be unable to qualify for the new zero % capital gains tax rate discussed below. **Tax Tip.** Since a child's *earned income* is not taxed at the parents' rate, you should consider employing your child in your business and pay your child *reasonable* compensation. Your child's earnings won't be subject to the kiddie tax and will generate a deduction for the family business. Also, if your child is over age 17 and generates earned income exceeding one-half of his or her support, the child could also avoid the kiddie tax exposure.

New Zero % Capital Gains Tax Rate Starts In 2008! From 2008 through 2010, the long-term capital gains and qualified dividends that would otherwise be included in the 15% (or below) ordinary income tax bracket, will be taxed at a zero % rate. **Planning Alert!** For 2008, all ordinary income (e.g., W-2, Form 1099, interest income) up to \$65,100 for joint returns (\$32,550 if single) is taxed at the 15% rate, or below. Thus, taxpayers filing jointly can benefit from the zero percent capital gains rate if (and to the extent) they have 2008 ordinary taxable income under \$65,100 (\$32,550 if filing single). **Example.** Assume that Betty and Fred **1)** have joint 2008 W-2 income of \$75,000 (and no other taxable income), **2)** have two dependent children (each 2008 personal exemption is \$3,500), and **3)** use the standard deduction (\$10,900 for 2008 joint returns). For 2008, their taxable income is \$50,100 (\$75,000 minus 4 exemptions which total \$14,000, minus the standard deduction of \$10,900). Thus, Betty and Fred could generate up to \$15,000 (\$65,100 minus \$50,100) of net long term capital gain taxed at zero %. All net long term capital gain exceeding \$15,000 would be taxed at 15%. **Tax Tip.** Formerly high-income taxpayers who are between jobs, are recently retired, or who expect to report higher-than-normal business deductions in 2008, may find themselves in a low enough tax bracket to take advantage of the zero % capital gains rate. If you are experiencing any of these situations, please call our firm and we will help you determine if there is a strategy for you to take advantage of these temporarily low capital gains rates. **Please note** that traditional year-end planning for capital gains and losses is discussed below.

TRADITIONAL YEAR-END TAX PLANNING TECHNIQUES

Planning With Capital Gains And Losses

Year-End Considerations For Capital Assets. Timing your year-end sales of stocks, bonds, or other securities may save you taxes. After fully evaluating the economic factors, the following are several year-end tax planning ideas for sales of capital assets. **Caution!** Always consider the economics of a sale or exchange **first!**

- **Taking Capital Losses To The Extent Of Capital Gains Plus \$3,000.** If you have already recognized capital gains in 2008, you should consider selling securities (that have declined in value) **prior to January 1, 2009.** These losses will be deductible on your 2008 return to the extent of your recognized capital gains, plus \$3,000. **Tax Tip.** These losses may have the added benefit of reducing your income to a level that you qualify for other tax breaks (e.g., the new \$7,500 first-time home-buyer's credit, \$600 stimulus refundable credit, \$1,000 child credit, HOPE education credit, and IRA contributions). **Planning Alert!** If within 30 days before or after the sale of loss securities, you acquire the same securities, the loss will not be allowed currently because of the "wash sale" rules.
- **Making The Most Of Capital Losses.** If your stock sales to date have created a *net* capital loss exceeding \$3,000, consider selling enough appreciated securities **before the end of 2008** to decrease the net capital loss to \$3,000. Stocks that you think have reached their peak would be good candidates. All else being equal, you should sell the short-term gain (held 12 months or less) securities first. This will allow your *net* capital loss (in excess of \$3,000) to absorb your short-term capital gain, while preserving your favorable long-term capital gain treatment for later years. **Tax Tip.** Net short-term capital gains could also be used to free up a deduction for any "investment interest" you have incurred (e.g., interest you have paid on your margin account).

Postponing Taxable Income

It is generally a good idea to defer as much income into 2009 as possible if you believe that your marginal tax rate for 2009 will be equal to or less than your 2008 marginal tax rate. Deferring income into 2009 could also increase various credits and deductions for 2008 that are being phased out as your adjusted gross income increases. **Be Careful!** In the current political environment, many are predicting that Congress could increase tax rates on regular income, dividend income, and/or capital gains **as early as 2009.** However, if you believe that deferring taxable income into 2009 will save you taxes, consider the following strategies.

Self-Employed Business Income. If you are self-employed and use the cash method of accounting,

consider delaying year-end billings to defer income until 2009. **Planning Alert!** If you have already received the check in 2008, deferring the deposit does not defer the income. Also, you may not want to defer billing if you believe this will increase your risk of not getting paid.

Required Distributions From Retirement Plans. If you want to postpone the distributions (and therefore the taxation) of amounts in your traditional IRA or in a qualified retirement plan as long as possible, there are many technical steps you need to consider, including:

- **Attaining Age 70½ During 2008.** If you reach age 70½ at any time during 2008, you must begin distributions from a traditional IRA account no later than April 1, 2009. A 50% penalty applies to the excess of the required minimum distribution over the amount actually distributed. If you wait until 2009 to make the first distribution, then two distributions must be made for 2009 (one by April 1, 2009 for the 2008 year, and one by December 31, 2009 for the 2009 year). If you are in this situation, please call our firm and we will help you determine whether it will be to your tax advantage to defer the required distribution for 2008 until 2009, or make the 2008 distribution **on or before December 31, 2008**.
- **Rollovers By Surviving Spouses.** If a taxpayer over age 70½ died during 2008 and the beneficiary of the decedent's IRA or qualified plan is the surviving spouse, and the surviving spouse is over 59½, the surviving spouse should consider rolling the decedent's qualified plan or IRA amount into his or her name **on or before December 31, 2008**. If the decedent's retirement account is rolled into an IRA in the surviving spouse's name before 2009, then **1)** if the surviving spouse is not at least age 70½, no distributions are required in 2009, and **2)** if the surviving spouse is at least 70½, the required minimum distribution in 2009 will be determined using the Uniform Lifetime Distribution Table rather than the surviving spouse's single life expectancy. **Therefore, converting the account into the surviving spouse's name on or before December 31, 2008 will substantially reduce the amount of the required minimum distribution for 2009 where the decedent was at least 70½.** **Planning Alert!** If the surviving spouse is not yet 59½, leaving the IRA or qualified plan amount in the name of the decedent may be the best option if the surviving spouse needs to withdraw amounts from the retirement account before age 59½. If the account is transferred into the spouse's name, and the spouse receives a distribution before reaching age 59½, the distribution could be subject to a 10% early distribution penalty unless made as a series of payments over the surviving spouse's life expectancy.
- **Transfers To Non-Spouse Beneficiaries.** Many qualified retirement plans require the distribution of amounts in an employee's account within a certain period after the employee's death. If a plan participant dies, recent tax legislation allows us to make a tax-deferred *trustee-to-trustee* transfer from a qualified retirement plan (e.g., a §401(k) plan, a profit-sharing plan) to an IRA for the benefit of a *non-spouse* beneficiary. If the transfer occurs within the time limits discussed below, this new rule will generally allow the non-spouse beneficiary to distribute and pay tax on his or her share of the decedent's account balance over the beneficiary's life expectancy. **Planning Alert!** To qualify, the new IRA must be set up in a manner that makes it clear that it is an "inherited IRA" (e.g., "Tom Smith as beneficiary of John Smith, deceased"). **Tax Tip.** To ensure that the "inherited IRA" will be entitled to pay its account balance over the non-spouse beneficiary's life expectancy without penalty, the direct trustee-to-trustee transfer generally should occur *prior to the end of the year following the year of the employee's death*. **Planning Alert!** If the employee died in 2007, you may need to complete the direct trustee-to-trustee transfer to the non-spouse beneficiary's inherited IRA **no later than December 31, 2008**, to maximize the payout period. Please call our firm if you think that you might benefit from this rule.

Taking Advantage Of Deductions

Accelerating Deductions Into 2008. As a cash method taxpayer, you can generally accelerate a 2009 deduction into 2008 by "paying" it in 2008. Accelerating an "above-the-line" deduction, such as the IRA deduction, qualified student loan interest and tuition deductions, qualified moving expenses, and deductible alimony into 2008 may allow you to reduce your "adjusted gross income" below the thresholds

needed to qualify for many other tax benefits. Remember, itemized deductions do not reduce your "adjusted gross income" and, therefore, will not affect your 2008 deductions and credits that are reduced as your income increases. *Itemized deductions* include charitable contributions, state and local taxes, medical expenses, unreimbursed employee travel expenses, and home mortgage interest. **Tax Tip.** "Payment" typically occurs in 2008 if a check is delivered to the post office, if your electronic payment is debited to your account, or if an item is charged on a *third-party credit card* (e.g., Visa, Discover, American Express) in 2008. **Be careful**, if you post-date the check to 2009 (or if your check bounces) no payment has been made in 2008. **Planning Alert!** The IRS says that prepayments of expenses applicable to periods beyond 12 months will not be deductible in 2008.

"Bunching" Itemized Deductions. If your itemized deductions fail to exceed your standard deduction in most years, you are not receiving maximum benefit for your itemized deductions. You could possibly reduce your taxes over the long term by bunching the payment of your itemized deductions in alternate tax years. This may produce tax savings by allowing you to itemize deductions in the years when your expenses are bunched, and use the standard deduction in other years. **Tax Tip.** The easiest deductions to shift between tax years are charitable contributions, state and local taxes, and your January home mortgage interest payment.

Take Advantage Of Health Savings Accounts (HSAs). Health Savings Accounts (HSAs) are one of the fastest-growing ways to save for health care. Qualifying contributions to health savings accounts (HSAs) are fully deductible whether or not you itemize deductions, and distributions for qualifying medical expenses are tax free. To qualify for an HSA, you must be covered by a qualifying "high deductible health plan" (HDHP). For 2008, if you have "family" coverage, your HDHP must have a minimum annual deductible of \$2,200 (\$1,100 for self only coverage). For 2008, your maximum contribution to an HSA is \$2,900 (\$3,800 if 55 or older) for self-only coverage, and \$5,800 (\$6,700 if 55 or older) for family coverage, even if your qualifying HDHP deductible is less. **Planning Alert!** As long as you are covered by a qualifying high deductible health plan by **December 1, 2008**, you will be able to contribute up to the maximum 2008 contribution limitation (e.g., \$5,800 for family coverage in 2008), subject to potential recapture rules.

Charitable Contributions. A charitable contribution deduction is allowed for 2008 if the check is mailed **on or before December 31, 2008**, or the contribution is made by a credit card charge in 2008. However, if you give a note or a pledge to a charity, no deduction is allowed until you pay off the note or pledge. **Tax Tip.** If you are considering a significant 2008 contribution to a public charity (e.g., church, synagogue, or college), it will generally save you taxes if you contribute appreciated long-term capital gain property, rather than selling the property and contributing the cash proceeds to charity. By contributing capital gain property held more than one year (e.g., appreciated stock, real estate, etc.), a deduction is generally allowed for the full value of the property, but no tax is due on the appreciation.

Maximizing Home Mortgage Interest Deduction. If you are looking to maximize your 2008 deductions, you can increase your home mortgage interest deduction by paying your January, 2009 payment on or before December 31, 2008. Typically, the January mortgage payment includes interest that was accrued in December and, therefore, is deductible if paid in December. **Tax Tip.** If you have both home mortgage loans and other personal debt, pay off the personal debt first because interest on personal debt is generally not deductible but home mortgage interest is generally deductible. This will maximize your interest deduction.

Tax-Wise Payment Of State And Local Taxes. If you anticipate deducting your state and local income taxes, consider paying them (fourth quarter estimate and balance due for 2008) and property taxes for 2008 prior to January 1, 2009 if your tax rate for 2008 is higher than or the same as your projected 2009 tax rate. This will allow a deduction for 2008 (a year early) and possibly against income taxed at a higher rate. **Planning Alert!** You should not employ this tactic without carefully calculating the alternative minimum tax impact. **Tax Tip.** You may "elect" to deduct "either" state and local *income* taxes or state and local *sales* taxes as itemized deductions. If you plan to deduct sales taxes for 2008, consider purchasing your big ticket items such as a motor vehicle, boat, mobile home, or home building materials **by December 31, 2008.**

Planning With Credits

HOPE Education Tax Credit. If you pay post-high school education expenses for yourself, your spouse, or a dependent, you may be entitled to the HOPE education tax credit of up to \$1,800 (up from \$1,650 in 2007) per student. This credit is available only for two years of post-secondary education with respect to any one student. For a full-time student who enters college in the autumn, that means that the credit is available for two of the first three calendar years the student attends college. The credit phases out ratably as your modified adjusted gross income increases from **\$96,000 to \$116,000** on a joint return (**\$48,000 to \$58,000** on a single return). The HOPE credit equals 100% of the first \$1,200 (and 50% of the second \$1,200) of tuition and fees required by the educational institution. **Tax Tip.** To get the full \$1,800 credit for 2008, you must pay tuition of at least \$2,400 for the student **by December 31, 2008**. For example, if tuition is \$1,200 each semester, you must pay two semesters of tuition in 2008 to get the full credit of \$1,800. If your child began college in August or September of 2008, you should pay the \$1,200 tuition for the spring semester of 2009 **no later than December 31, 2008** (payments after that date will **not** qualify for credit during 2008).

Adoption Tax Credit. If you are considering adopting a child, the adoption tax credit may substantially reduce your tax bill. For 2008, you may be entitled to an adoption tax credit for qualifying adoption expenses of up to \$11,650 per child. However, the adoption credit is phased-out as your modified adjusted gross income increases from **\$174,730 to \$214,730**. **Tax Tip.** If you finalize the adoption of a "special needs child" **by December 31, 2008**, you may receive the full adoption tax credit of \$11,650 even if this is more than your adoption expenses. This credit for the excess of \$11,650 over your actual expenses is allowed only in the year the adoption is finalized.

Other Items To Consider

Penalty For Under-Withholding Or Under-Estimating. One way to avoid a penalty for failing to pay or withhold sufficient income taxes for a tax year is to pay 100% of your prior year's tax liability in quarterly estimated payments or through income tax withholding. **Planning Alert!** If your 2007 AGI was over \$150,000, you must pay in 110% of your 2007 tax liability to qualify for this safe harbor in 2008. **Tax Tip.** If you have not paid sufficient estimates to avoid an underpayment penalty for 2008, you may have additional amounts withheld from your wages, year-end bonuses, or IRA distributions **on or before December 31, 2008**. Any withholding for 2008 is deemed paid equally on each quarterly installment date for estimated tax purposes, even if the withholding occurs in December.

FINAL COMMENTS

Please call us if you are interested in a tax topic that we did not discuss. Tax law constantly changes due to new legislation, cases, regulations, and IRS rulings. Our firm closely monitors these changes and we will be glad to discuss any current tax developments and planning ideas with you. **Please contact us before implementing any planning ideas discussed in this letter, or if you need more information.**

Note: The information contained in this material represents a general overview of tax developments and should not be relied upon without an independent, professional analysis of how any of these provisions may apply to a specific situation.

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