COMMENTS - MARCH, 2004

ACCOUNTING AND AUDITING

- The Securities Exchange Commission has decided to defer, until January 1, 2005, the requirement that auditors of nonpublic broker-dealers register with the Public Company Accounting Oversight Board. The Sarbanes-Oxley Act established a requirement that auditors of financial statements of public companies or "issuers" as defined in the law, register by October 22, 2003. However, there was no registration deadline with respect to auditors of broker-dealers that do not issue securities. While the SEC could change its mind about the 2005 registration deadline, for now, it permits privately held broker-dealers to file annually with the Commission and send their customers a balance sheet certified by an independent public accountant not registered with the Oversight Board.

- The greatest risk of fraud in most organizations is in the purchase area. Typical methods of theft include:

  < Presentation of fictitious invoices for payment (usually in collusion with another employee).

  < Over-billing for items purchased.

  < Preparation of erroneous checks for employees (either duplicate or to former employees).

  < Inclusion of duplicate invoices for payment.

  < Conflicts of interest where the employee is abetting fraudulent practices by a vendor for personal gain, or has a business which supplies goods to the employer.

  Eventually, these practices come to light as a result of an internal audit or an external audit by an independent CPA firm, but by then, considerable damage may have occurred and the losses may not be recoverable. A better alternative is to have regular recurring operational audits. These entail:

  < Review of procedures to eliminate waste and inefficiency.
  < Recommendations for improving policies and procedures.
  < Identification of management's goals and objectives.
  < Review of compliance with management's policies, procedures and objectives.
  < Testing of transactions for unauthorized, fraudulent or irregular activities.
  < Identification of systems weaknesses.
  < An overall independent evaluation of the purchasing operation.

  Unlike a financial audit, an operational audit of purchasing is focused on uncovering and preventing weaknesses <u>before</u> fraud occurs rather than trying to assess the amount of a loss after the fact. Incidentally, fraud is as likely to occur in privately-held companies as in public ones although the underlying motives of the perpetrators may be different. Thus it is important for managements of all firms to utilize the skills of their independent auditors to establish internal control systems designed to minimize fraud possibilities and to ferret out fraud if it is suspected.

- Want to sell your business and obtain the highest price possible? The degree of your success depends largely on the adequacy of your preparation. Buyers usually determine the price they will pay based on their evaluation of four key issues. They are:

    - The current revenue and income of your company
    - The consistency of the company's growth
    - The stability of the workforce
    - The anticipated return on the investment versus the risk of acquiring your business

    A business valuation, historical financial statements for 5 to 7 years which highlight normal operating results and projections of revenue growth and earnings can significantly influence the ultimate outcome of a successful business sale.

ADMINISTRATION, SYSTEMS AND EDP

- If you are doing business using e-mail, you need to be alert to the response time to inquiries by customers. According to one consulting firm, customers expect a response to their e-mail inquiries within 6 hours. Yet, more than half the companies surveyed cannot meet this requirement and take up to 24 hours to respond. Even more disturbing, 24% of those questioned could not be certain they responded at all. Obviously, in today's competitive environment, companies which are slow in answering e-mail inquiries are likely to lose considerable business. If there is some logical reason for the delay, the customer should be phoned or sent an automatic return e-mail acknowledging receipt of the inquiry. Of course, it is also important when using e-mail to make sure spelling, grammar and content of the message be carefully checked to reflect the image you want people to have of your firm.

- It probably does not come as a surprise, but employees frequently use their Web site access at work for non-work activities. According to an annual survey by a San Diego-based computer security firm, their favorite pastimes in order of frequency are:

    - Obtaining the latest news
    - Sending personal e-mail
    - Shopping on-line
    - Online banking
    - Investing

    Other, less frequent, personal Internet activities at work include sports, auctions, video clips/music, downloading software and games. About half of employers expressed no concern about personal use of the Internet by employees during work hours, and the other half expressed moderate to extreme concern because they believe it diminishes worker productivity. It's estimated one-third of the time employees access the Web at work is spent on personal matters. Translated another way, employees spend about 3.4 hours per week conducting personal affairs over the Internet while at work. This is an area where management has to evaluate at each firm what it is comfortable with. Then, establish clear rules governing the extent of personal use employees may make of Web access during work hours.

- Health care providers can expect to see more of their patients using debit cards. The IRS has indicated that employers offering flexible spending accounts may provide participants with debit cards to pay for medical expenses which are not covered by their health insurance. The flexible spending accounts are funded with pre-tax dollars and lower the compensation and income taxes of participating workers. Furthermore, employers as well as employees, lower their share of payroll taxes, providing an added incentive for participation in these plans. Since the use of the debit cards, which the employer must provide for the employee, will reduce much of the paperwork associated with the flexible spending accounts and increase quick access to funds in the account, it is anticipated that far more employees will participate. In turn, physicians, pharmacists and other medical care providers should check to assure their existing systems will be able to process payments via the debit cards.

- Do you know how effective your technology expenditures are? Over 50% of large companies have no idea, because they fail to measure the effect of the investment in technology on worker productivity. We believe that whenever material outlays are made for equipment or software, productivity must be measured to determine the return on the technology investment and to evaluate the length of the payback period.

AGRIBUSINESS

- If someone has a sideline vocation, a key determinant of whether the venture is a hobby or a business, and hence, eligible to deduct losses, is whether the person operating the venture had a profit motive. The issue came up recently in the case of a physician and his wife, who were also engaged in a cattle breeding venture. Here, although the cattle business incurred losses in the 6 straight years under IRS scrutiny, the Tax Court found the losses were consistent with startup period losses common in their venture. The Court found the taxpayers' records documented the herd building process. Furthermore, the growth of the herd, the taxpayers' good record keeping practices and the lack of any significant recreational element in the cattle breeding, convinced the Court the taxpayers had a profit motive, and were thus engaged in a legitimate sideline business. In turn, the taxpayers were allowed to deduct the losses which the IRS had earlier disallowed. The case illustrates the need for conducting a sideline business in a business-like fashion if you want tax deductions for losses which are likely to occur in the early years. Of course, having a CPA involved with the establishment of record keeping systems, administration of a venture and providing ongoing tax advice is in itself an indication of a serious business motive.

FEDERAL REGULATIONS

- The SEC has amended its regulations to require mutual funds which advertise performance to make available results current to the most recent month-end by means of a toll-free or collect telephone number or on a Web site. Fund advertisement will be required to identify this phone number or site. The advertisements would also be required to include disclosures which would direct investors' attention to a fund's investment objective, risks, charges and expenses.

■ The Department of Labor has postponed the deadline by which firms are required to provide special "COBRA" notices to new and departing workers about the right to buy health care coverage after leaving the company. The new deadline is July 1, 2004, giving firms an additional 6-months to program their computers to provide the notices.

INSURANCE

■ Although health care inflation is showing some signs of slowing, employer health insurance costs are still expected to rise about 12% in 2004 and reach an average of $7,009 per employee. One way to contain cost increases is to replace co-payments with coinsurance. It's believed that employees who are required to pay 20% to 30% of a physician's actual charges are likely to shop around more carefully than if they merely pay $10 or $20 as a co-payment, regardless of the health care provider's charge. Another alternative employers are considering is providing optional benefits that are paid for by the employees. Examples are long-term care insurance, disability insurance, vision and dental insurance. Here, employees can often obtain lower cost insurance because of the employer's buying clout with the insurance company. Employees appreciate the reduced insurance costs while there is no cost for the employer. Finally, consider providing the use of tax favored savings accounts to help employees reduce their medical care outlays.

■ The Federal Emergency Management Agency's National Flood Insurance Program makes Federally backed flood insurance available to homeowners, renters and small business owners via insurance agents and insurance companies that offer this product. The average policy provides about $145,000 in coverage and costs approximately $400 per year. Many people with such insurance are not aware, however, they must file a proof of claim within 60 days after a flood in order to be covered. The insurance also has a variety of exclusions. For example, basement improvements (finished walls, floors, ceilings) and personal belongings, such as furniture, are not covered. Conversely, structural elements such as water heaters and circuit breaker boxes are protected, as well as washers, dryers and freezers. If you want to know more about flood insurance you might want to visit the FEMA Web site at www.fema.gov/nfip and click on "consumers."

■ The Health and Human Services Administration has announced that the Medicare Part B premium will rise 13.5% in 2004, to $66.60 per month. Other Medicare changes announced include:

< A rise in the hospital deductible for the first 60 days of hospital stays to $876 from $840 in 2003.

< An increase to $219 per day the patient pays for hospital stays between days 61 through 90, and to $438 per day for stays in excess of 90 days.

Many people obtain supplemental insurance to provide protection against these annual increases in patient costs.

LABOR RELATIONS

- Can terminated employees who are receiving severance pay over several months continue to participate in the company's cafeteria or 401(k) plans? In general, ex-employees may continue participating in a cafeteria plan on a salary reduction basis if the underlying plan document permits this and the pay-ins are W-2 wages. Conversely, when it comes to 401(k) plans, only current employees are permitted to make elective compensation deferrals into these plans, thus excluding <u>former</u> employees who are receiving severance payments from participating. However, elective deferral to a 401(k) plan may be made from the last paycheck, provided the plan's definition of "compensation" permits this.

- Some companies with employees who travel extensively provide them with "rolling advances." Here, the employee obtains a travel advance and is reimbursed based on the expenses incurred, but is allowed to keep the extra money as an advance towards his or her next trip rather than having to return the money to the employer. We strongly advise against this type of arrangement. It violates the IRS travel expense record keeping requirements, and, upon audit, IRS agents will treat the excess advance as taxable wages paid to the employee.

- Average pay increases in 2003 were 3.3%. What will they be in 2004? Experts project that, despite some economic recovery, pay increases will be very modest and will average only 3.5%. Many companies are adding non-monetary recognition awards and spot-cash awards for outstanding achievement as part of their pay package to enhance the limited pay increases.

MARKETING

- Are you aware the government auctions off billions of dollars annually in real estate, automobiles, furniture, office equipment, jewelry and other items? Participants can obtain a list of items in advance and the items may be previewed briefly, but everything is sold "as is" and nothing can be returned. Following are the phone numbers of the agencies which have the most popular auctions:

General Services Administration	800/473-7836
Customs Service	703/273-7373
U.S. Marshals	888/878-3256
Department of Defense	480/367-1300

  Other auctions are conducted by the U.S. Postal Service and the IRS. Some of the Agencies can be contacted on-line and will also take bids on-line at the time of the auction. Incidentally, for those looking for bargains, the National Association of Bankruptcy Trustees auctions real estate, vehicles, jewelry, business equipment and other goods from those who have had belongings repossessed. Auction information is available by calling 800/445-8629.

- The Can-Spam Act was signed into law on December 16th. It outlaws use of false or misleading transmission information, deceptive subject headings and automated methods of registering multiple E-mail accounts for spamming. Senders of unsolicited E-mail must now include their physical address and information for opting out of future mailings. Commercial E-mail senders will be required to update their marketing databases to note whether a person has opted out of receiving their solicitations. The Council for Responsible E-mail of the Association for Interactive Media offers the following guidelines for marketers to avoid being accused of mailing spam:

< Don't falsify the sender's domain name.

< Don't falsify the subject line to mislead readers about the content of the E-mail message.

< Include an option for the recipient to unsubscribe from future messages from the sender or list owner.

< Inform respondents who provide an E-mail address how it will be used for marketing purposes.

< Don't obtain E-mail addresses from chat rooms and similar sites with the intent of sending commercial E-mail without consumers' knowledge or consent.

< Don't send bulk unsolicited commercial E-mail to an E-mail address without a prior business or personal relationship.

It is hoped the new legislation will eliminate spam over the Internet and enable firms to utilize their information networks for essential business communications.

■ Although the events of September 11th have resulted in increasing displays of patriotism among Americans and widespread displays of the American flag, if you include a picture of the flag in your advertising and marketing materials, you should make sure you do not violate Federal or state laws ban disrespectful use of the flag. The Federal "flag code" bans use of the image of the country's flag in advertising in any manner whatsoever. However, this is interpreted as forbidding use of a picture of the flag on advertising materials and fliers designed for temporary use and discard, and as prohibiting fastening advertisements onto a flag or a flag pole. Although the Federal flag code imposes no Federal penalties for violations, states are permitted to impose penalties. Thirty-five states and the District of Columbia do impose penalties for violation of the "flag code" with most imposing penalties of 30 days to 1 year in jail and fines ranging from $50 to $1,000 per occurrence.

■ As a small business owner you have undoubtedly been advised at one time or another you can limit your personal liability by either incorporating or establishing a limited liability company. Unfortunately, as a practical matter, this is probably untrue. The reason: Most small businesses cannot obtain third party financing without the owner's personal guarantee. In effect, the owner's personal assets are at risk in the event a loan can't be repaid.

■ Sometimes companies are billed for goods shipped to another firm. Sometimes it is just an honest mistake, but frequently, it's because a dishonest employee submits bills for payment for goods shipped elsewhere. In order not to be victimized we recommend firms track deliveries. Key elements of a tracking systems include:

< Using numbered purchase orders for purchasing goods and issuing a numbered copy with the amounts blocked out to the employee who receives the goods

< Requiring recipients of goods to compare purchase orders with packing slips and actual shipments

< Assigning an accounting employee to compare purchase order with packing slips as a double check on the receiving employee

< Having someone in accounting match the packing slips, receiving reports and purchase orders to determine they coincide before payment is made

Although there is no way to guarantee fraud can't occur, this kind of system would decrease the odds.

■ The IRS and the Federal Trade Commission have issued a consumer alert for individuals seeking credit counseling from tax-exempt organizations. The Agencies are concerned the combination of exempt status and the corresponding exemption from consumer protection may leave people vulnerable to fraud. To help debtors, the IRS says it will:

< Scrutinize applications for tax-exempt status and the continuing operations of credit counseling organizations more closely, and

< Warn consumers to look beyond tax-exempt status to see whether an organization is legitimate.

The IRS cautions consumers to carefully read an organization's service agreements for services to be performed and costs, and to avoid organizations which charge high fees, require "voluntary" contributions or offer quick fixes. Consumers are also urged to contact creditors to determine whether they are willing to work with the agency selected and to follow-up frequently to make sure the debt is being liquidated.

■ When do you stipulate payment terms begin? Possibilities include: (1) on the invoice date; (2) on receipt of the invoice; (3) on the shipment date; or (4) on the date the goods are received. Sixty-nine percent of businesses use the invoice date as the date when payment terms go into effect. However, use of one of the other dates might make business sense if it enhances your competitive position with customers.

PENSION AND ESTATE PLANNING

■ Settling a loved one's estate is emotionally difficult, especially in the initial weeks after the person was deceased. Nevertheless, there are a variety of critical tasks bereaved kin must undertake. Here is an orderly process:

< Obtain death certificates and request a few extra in case they are needed.

< Inform the post office and provide a forwarding address for the deceased's mail.

< Open a separate bank account and obtain a taxpayer I.D. number for the estate.

< Collect all bills, brokers statements, financial statements, etc. to determine the extent of assets and liabilities of the deceased.

< Before paying bills, determine which services should be canceled and to conserve the estate assets for payment of taxes.

< Inform the Social Security Administration of the death and return any checks received for the month in which the person died.

■ Two separate surveys by financial firms indicate Americans are anticipating a less than rosy retirement. Among the findings:

< Only one-third of respondents expect to be able to retire early - by age 60.

< About half of participants expected they would have to continue working after retirement.

< Almost half of those who will have to continue working hoped they could make a change to a less stressful job in retirement.

< Three-fourths of the 600 survey participants said they had become more risk averse after the bursting of the stock market bubble in 2000.

We believe that most people can avoid dire retirement prospects by engaging in retirement and tax planning early and following a consistent and systematic asset building plan in conjunction with sound professional financial and tax advice.

■ Charitable gift annuities are being offered by an increasing number of tax-exempt organizations. Essentially they involve making a gift to a charitable organization, in exchange for an annuity (a guaranteed stream of income at a fixed rate) which can continue for the donor's lifetime or over a specified number of years. The older the donor is, the greater the amount of periodic income the donor can receive. If a couple makes a gift, the payments will be smaller than if an individual makes a gift, because the couple has a longer joint life expectancy. From a tax standpoint, the donor is entitled to an immediate tax deduction for the difference between the value of what was given to the charity and the value of what is expected to be paid back under the annuity. In turn, a portion of the payments received from the charity by the donor will be taxable, and a portion will be a tax-free return of capital. One way of enhancing the tax benefit is to fund the gift annuity with appreciated assets. For example, if a donor gives appreciated stock, the capital gain tax is deferred and spread over the period of the annuity payments. It is also possible to defer income taxes on payments from charitable gift annuities by delaying the time when the payments are supposed to begin, even though the tax deduction is obtained at the time the gift is made. Although the tax rules are complex, charitable gift annuities provide significant retirement and estate planning possibilities, as well as an income stream. Furthermore, they provide significant safety because the obligation to make the annuity payments is a claim on all assets of the issuer.

- When a traditional IRA is converted into a Roth IRA, the value of the account is taxed as income. This has caused some clients to wonder whether non-deductible contributions into the account that had already been taxed are subject to tax a second time. The answer is: "No." When a conversion to a Roth IRA takes place the tax on the account is imposed only on the amount that exceeds the taxpayer's basis in it, and the basis includes the amount of IRA contributions that weren't deducted.

- Is your company's 401(k) plan up-to-date? Employers that sponsor such plans should:

  < Maintain an investment policy statement.

  < Provide a diversified choice of investment options.

  < Offer investments from a variety of mutual fund families.

  < Review investment selection annually to determine how they measure against established benchmarks.

  < Provide advisory assistance to enrollees to help them with investment allocation decisions.

  < Insure timely statements are issued to participants.

  It's also desirable to provide some investment seminars to heighten participant understanding of their investment choices and of retirement planning.

- Estate taxes are taking a significant decline in 2004. The maximum estate tax rate drops 1% to 48%, and the maximum estate tax exclusion increases from $1 million to $1.5 million. It's also possible to reduce the size of an estate by making annual gifts of up to $11,000 ($22,000 if made by a couple) to children and grandchildren. In addition, you can pay their medical bills or education expenses directly to the provider, and the payments won't reduce their gift tax exclusion.

PERSONAL FINANCIAL PLANNING

- Many people are in the habit of using their credit card to make major purchases and then only make the minimum payment on the outstanding debt. Unfortunately, they never figure out what it will cost to pay off the debt. Assume a person has a $5,000 balance outstanding, the interest rate is 18% and the minimum payment is $100 the first month and 2% of the outstanding balance or $10, whichever is greater, thereafter. It will take 46 years to pay off the debt, and the total cost will be $18,926, including $13,926 in interest which is not tax deductible. Looked at another way, assume part of the debt was incurred for the purchase of a computer costing $1,000. Using the same interest rates and payment arrangement as in the previous example, it would take 19 years to pay off the equipment, and the final cost would be $2,899 which includes $1,899 of non-deductible interest. It's not surprising credit card companies urge you to only make the minimum payment each month.

- You should be aware that, in some cases you can claim a parent, or a friend or relative who lives with you as a dependent. To be eligible, the person must be a U.S. citizen or a resident of North America, the person's gross income in 2003 must have been below $3,050, and you must have provided over half of what it costs that person to live during the year. (You can use the fair rental of the housing you provide in determining whether you provided over half the support.) In the case of a parent, even if one of the children cannot meet the support test because several children provide support for the parent, by signing a multiple support agreement, one of the siblings can be designated to take the dependency exemption. In these circumstances it is desirable for the one with the highest adjusted gross income to be designated, since this will maximize the tax benefit. You should also be aware even if a parent cannot be taken as a dependent, medical expenses paid in behalf of a parent may also be added to a child's itemized medical expense deduction if paid directly by the child to the medical provider. An example might be payments of premiums for a parent's long-term care insurance.

- The Financial Planning Association says despite signs of recovery, almost one-half of Americans continue to be unsure about their financial future, and only 36% felt very confident. These results are borne out by other studies which show only about 28% of Americans are willing to take on more credit debt while 72% indicate they would not be willing to add to their indebtedness despite the fact their investment portfolios have grown. We suspect one reason for the uncertainty is many people delay personal financial planning so that they lack a road map to point them in the right direction.

- The IRS recently announced the 2004 inflation indexed adjusted amount that a taxpayer may loan to a qualified continuing care facility at a below market rate without incurring imputed interest income. The amount a taxpayer can lend to this type of facility at below market rates rises to $154,500 from $151,000 in 2004.

REAL ESTATE

- A large percentage of the baby-boom generation will be retiring in the next decade, and many of them are restless. A recent survey by the Del Webb Corporation indicates 59% intend to relocate upon retirement. What's more, 31% intend to move more than 3 hours distant from the pre-retirement locale. These findings bear out that many people will change their state of domicile after retirement. It's important for retirees to assess the tax ramifications of a move to another state. Different states have vastly different tax structures with respect to income taxes, personal property taxes, sales taxes and inheritance taxes and the rates at which taxes are imposed also differ appreciably. Thus, the decision to retire to a particular state can have major financial implications for retirees and their heirs.

- Reverse mortgage are loans that tap into the equity of a home and also allow the homeowner to remain in the house. They are geared to senior citizens and, when the loan is signed, the payments are reversed. In effect, the bank sends payments to the homeowner, and the loan is paid back with interest when the homeowner either dies or moves out and the home is sold. These loans have not been very popular, and the AARP has had reservations about them because they are "rising debt - falling equity" deals. However, recently, one of the major reverse mortgage lenders decided to drop up-front fees usually wrapped into the financing, to make the mortgages more appealing to seniors. These fees are usually 6 ½% , and are added on to what is owed.

■ It's not uncommon for a small to medium-sized tenant to ask for the right to sell and display merchandise on the sidewalk in front of the establishment when negotiating a shopping mall lease. Landlords who want to be accommodating should be cautious, however, to carefully spell out how the sidewalk space may be used. Restrictions might include:

< Days and time-periods when the sidewalk space may be used

< Types of merchandise which may be displayed on the sidewalk space

< Requirements for the display space to conform to displays used by other tenants

< Provisions for keeping the area neat and clean

< Not interfering with normal customer traffic on the sidewalk

< Obtaining landlord consent with respect to any signs or banners being displayed over the area

These restrictions enable the landlord to control how the space is being used, and allow the landlord to terminate use of the space if there is non-compliance with the restrictions.

TAXATION

■ Although teachers are eligible to deduct up to $250 for outlays they made for classroom supplies, the IRS cautions this deduction is not available to home schooling parents. The deduction is limited to counselors, principals and teachers in grades K - 12 who work more than 900 hours in a school year.

■ Persons who provide day care for children in their own home can simplify the record keeping for 2003 for deducting the cost of meals they provide to children under their care. Until 2003, the actual cost of all meals and snacks provided had to be recorded to obtain a tax deduction, but beginning with 2003, the taxpayers could use a standard rate to claim the deduction. For 2003 the standard rates were:

	Continental U.S.	Alaska	Hawaii
Snack	$0.53	$0.87	$0.63
Breakfast	$0.98	$1.55	$1.13
Lunch/Dinner	$1.80	$2.93	$2.11

These rates may be used by persons engaged in the trade or business of providing day care in their homes for other people's children. Of course, if actual costs exceed the standard rates, the meal expenses can be deducted using those costs provided adequate records have been kept.

■ The IRS has announced the optional standard mileage rate for business use of an automobile (including vans, pickup trucks and panel trucks in 2004) will increase to 37.5 cents per mile from 36 cents per mile in 2003. The standard rate for using an automobile for medical reasons or for calculating deductible moving expenses will also increase to 14 cents per mile from 12 cents last year. However, the rate used when using an automobile to provide services to a charitable organization remains unchanged at 14 cents per mile. The IRS also indicated if taxpayers use no more than 4 vehicles for business purposes, they may use the optional standard mileage rate for all of them starting in 2004. The optional standard rate may be used by taxpayers to decrease the record keeping burden associated with tracking actual automobile expenses. Incidentally, the Tax Court recently sanctioned the use of the standard mileage rate where a taxpayer made trips by car to the IRS and back in connection with an office audit of the taxpayer's tax return and also used the vehicle to go to a library to do research in connection with the audit. In this situation, the cost would have to be deducted as a miscellaneous itemized deduction, where it would only be deductible if those deductions exceeded 2% of adjusted gross income.

- The IRS has announced that substitute payments in lieu of dividends which shareholders may receive if their stock is loaned to third parties have to be reported separately in Box 8 of Form 1099-MISC rather than on Form 1099-DIV. The distinction is important because dividends are taxed at no more than 15%, but Congress has made it clear that payments made in lieu of dividends don't qualify for the lower dividend rates. The IRS has also indicated it will permit composite substitute statements to be furnished for Form 1099-DIV and Form 1099-MISC, beginning for statements required to be furnished for 2003. The IRS had also indicated brokers won't be penalized for failing to separately report any substitute dividends if they have made a good-faith effort to reprogram their systems. In these circumstances, unless recipients know the payments are really substitutes for dividends, they can treat them as being subject to the tax favored 15% rate.

- The IRS has released the depreciation limits for cars, light trucks and vans placed in business service during 2003. With respect to passenger automobiles (non-electric) placed in service in 2003, and used in business 50% or less, the first-year depreciation is the business-use percentage multiplied by $3,060; the second-year limit is $4,900; the third-year limit is $2,950, and the limit for each succeeding year is $1,775. With respect to non-electric passenger automobiles used more than 50% in business in 2003, the depreciation limit is raised to reflect the first-year bonus depreciation allowance, provided the taxpayer does not elect out of bonus depreciation. In effect, the 30% bonus allowance for cars placed in service before May 6, 2003, increases the first year depreciation limit to $7,660 multiplied by the business use percentage. Conversely, if the car was placed in service after May 5, 2003, a 50% bonus depreciation allowance can be claimed raising the first year's depreciation limit to $10,710 multiplied by the business use percentage. The limits for subsequent years are the same, regardless of whether first-year bonus depreciation is claimed. The IRS regulation treats light trucks and vans. including minivans and SUVs rated at a gross vehicle weight of 6,000 pounds or less as "passenger automobiles" subject to the annual depreciation ceilings. However, there is an exception to the limits for vehicles placed in service after July 6, 2003, that are treated as qualified non-personal-use vehicles, such as modified trucks and vans that are unlikely to be used more than a "de minimis" amount for personal purposes. For those light trucks and vans that are not excepted, the annual depreciation limits are somewhat higher than for other vehicles. Also, electric cars placed in service in 2003 are subject to higher depreciation limits than other vehicles.

- The IRS has announced its online Taxpayer ID Number (TIN) matching program is up and running. It enables a company to submit up to 25 vendor name/TIN combinations to determine whether they match IRS records prior to submitting 1099 reports. One possible benefit is it may enable the taxpayer to avoid an IRS penalty by obtaining correct information. The Agency also says it is less likely to impose penalties on taxpayers that have attempted to utilize the matching program.

PAYROLL TAXES

- The IRS says that employers who receive penalty notices for inaccurate employee social security numbers on Forms W-2 will have to show that they acted in a responsible manner in trying to obtain accurate information to avoid the penalties. This includes:

  - Demonstrating they made a number of solicitations to get the information

  - Showing the number used was the number shown on the W-4 Form signed by the employee

  - Documenting the employee was asked to submit a W-4 Form with the correct number

  Employers should also be aware if they are unable to get W-2 Forms and 1099s out in time this year, they can get an automatic 30-day extension by filing Form 8809. This may be a better approach than to submit Forms which might include errors.

- Very small firms will get a break on unemployment taxes in 2004. They will be able to skip quarterly deposits of FUTA taxes until accumulated income and FICA taxes exceed $2,500, the trigger for paying those taxes quarterly. Last year quarterly FUTA deposits were required once FUTA liability exceeded $100 in the quarter, even if the threshold for other payroll taxes was not met.