

Fishing Information Newsletter

News You Can Use from the Internal Revenue Service

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Message from the Editor

It is our goal to make this newsletter the most useful and informative to you as possible. If there is a topic that you would like addressed in an upcoming newsletter, or if you have a fishing-related question you would like answered, please send us your topic ideas and questions and we will make certain they are addressed in future issues.

This edition of the newsletter contains an update on tax law changes and the first installment in a series of articles on Health Insurance.

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Please send us your topic ideas and questions....

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Law changes for 2001 Tax:

The Job Creation and Worker Assistance Act of 2002 signed into law March 9 by President Bush may reduce your taxes for 2001 if you acquired depreciable property after September 10, 2001. You may also be able to carry back a net operating loss from a tax year ending in 2001 or 2002 to the 5 preceding tax years. If you have already filed your 2001 tax return, you may wish to file an amended return.

Depreciation Bonus:

If you acquired depreciable property after September 10, 2001, with a recovery period of 20 years or less, you may be able to claim an additional **30%** first-year depreciation allowance. This includes passenger automobiles used more than 50% in a qualified business use. In addition, more generous depreciation rules apply to certain property acquired after September 10, 2001, and used in the area of New York City damaged in the September 11, 2001, terrorist attacks.

[Form 4562](#), *Depreciation and Amortization*, and its [instructions](#) have been revised to reflect these changes. For additional depreciation guidance - A supplement to Publication 946, *How To Depreciate Property*, will explain the depreciation changes in the new law. The supplement will be issued at a later date.

[Form 2106](#), *Employee Business Expenses*, and its [instructions](#) have been revised to reflect the new depreciation rules for vehicle expenses. A supplement to Publication 463, *Travel, Entertainment, Gift, and Car Expenses*, will explain the depreciation changes specific to automobiles when issued at a later date.

If you have already filed your 2001 income tax return, you may use Form 1040X, *Amended U.S. Individual Income Tax Return*, to claim the additional 30% first-year depreciation allowance.

Net Operating Loss:

If you carried back a net operating loss (NOL) from a tax year ending in 2001 or 2002, you may be eligible under the new law, to carry it back for 5 years instead of 2 or 3. If you owe alternative minimum tax, any alternative tax NOL deduction attributable to an NOL carried back from (or carried forward to) a tax year ending during 2001 or 2002 is allowed to offset 100% (instead of 90%) of your alternative minimum taxable income determined without regard to that deduction.

Simplified Employee Pension Plans:

The annual contribution limit to Simplified Employee Pension (SEP) plans increases from 15% to 25% of compensation for 2002, up to a maximum deposit of \$40,000.

Additional Information Sources

For more information on the new laws see Publication 3991, *Highlights of the Job Creation and Worker Assistance Act of 2002*, which is in the process of being released. This Publication will highlight provisions of the Act that take effect in 2001, 2002, and later years.

For more information about net operating losses for individuals go to the October 2001 newsletter and review the NOL article. See Publication 536 which explains net operating losses for individuals, estates and trusts and see Publication 542 for corporations. A supplement to Publication 536 will be issued at a later date to incorporate the law changes.

Health Insurance

*By Jacki Morin, Revenue Agent
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Self-employed individuals with a net profit reported on Schedule C, C-EZ, or F, partners with net earnings from self-employment reported on Schedule K-1 of Form 1065, and shareholder's owning more than 2% of the outstanding stock of an S corporation with wages from the corporation reported on Form W-2, may be eligible to deduct 70%, in 2002, of the amount paid for medical insurance and qualified long-term care insurance for themselves, their spouse, and their dependents. The insurance plan must be established under the business. If the premiums are paid by the S Corporation, they must be included in the individual's gross income.

The deduction is taken on line 28 of Form 1040. (The deductible percentage increases to 100% in the years after 2002.)

If you are **eligible** to participate in any employer subsidized health plan (including your spouse's) at any time during any month, you do not qualify for the self-employed health insurance deduction during that

month. This rule is applied separately to plans that provide long-term care insurance and plans that do not provide long-term care insurance. For example, if you participate in your spouse's employer provided health plan which does not offer long-term care insurance, any premiums you pay for long-term care insurance which is established under your business, are deductible subject to the appropriate limitations.

Self-employed fishermen who have net income from their fishing activity qualify for this deduction. Crewmembers who receive a percentage of the catch also qualify for this deduction since they are considered self-employed for this purpose under Internal Revenue Code Section 401(c).

If the fisherman has more than one health plan established under different businesses, a special computation is required. (See Publication 535 for details.)

No deduction is allowed for self-insurance reserve funds.

(Next month – special considerations for the fisherman filing a Schedule C – sole proprietorship business return.)

Your Questions Answered

Would a loss on the sale of a fishing permit that was purchased in 1990 and not depreciated be a capital loss or an ordinary loss?

A fishing permit is a capital asset, therefore the loss would be capital.

IRC section 1221 defines capital asset to mean property held by the taxpayer whether or not connected with his trade or business, but does not include - section 1221(a)(2) property used in his trade or business which is subject to the allowance for depreciation (section 167).

IRC section 197(d)(1)(D) allows amortization of permits/licenses. Fishing permits/licenses acquired after 8/10/93 or, if an election was made, property acquired after 7/21/91, are eligible for amortization. Under section 197, amortization of an intangible shall be treated as property which is of a character subject to depreciation under section 167.

In this case you are not eligible to amortize the fishing permit since it was purchased in 1990. The sale remains as section 1221 property and must be reported on Schedule D as a long-term capital loss.

Publication 544, *Sales and Other Dispositions of Assets*, provides further explanations on how to treat sales of business assets.

I was awarded my fishing permit at no cost through a government program. I have not fished for the last 10 years, but I have paid a yearly permit renewal fee of \$200 to maintain my license. I am now selling my permit for \$18,000. Is the yearly renewal fee I have paid included in my cost basis? How do I report the sale on my return?

The yearly renewal fee would normally be deducted on your business return (Form Schedule C), as a license expense. Since you have not been operating a business this expense was deductible each year on Schedule A as a Miscellaneous Itemized deduction subject to 2%. The sale of the fishing permit would be reported on Schedule D, *Capital Gains and Losses*, as long-term capital gain in the amount of \$18,000. (\$18,000 Sales Price – \$0 Basis = \$18,000)

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