

## PACIFIC BUSINESS NEWS

# THE BUSINESS OF LAW

EXPERT LEGAL ADVICE FOR HAWAII'S SMALL BUSINESS

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## TOPIC

**Roths – To Convert Or Not**

January 1, 2010 is the effective date of many new tax laws passed so long ago they leave you wondering, "What were they thinking?"

Starting this month, everyone can convert their IRAs from regular to Roth IRAs. I ask you, would you like your investments to grow tax free? Who wouldn't. Tax free growth is what you get from a Roth.

The price of converting is payment of the tax due on the amount converted as if the amount converted had been withdrawn from the IRA.

Is the future "tax free growth" benefit worth the "current tax" price? In some situations the answer is clearly yes; other times clearly no; but most often the answer is maybe, and only time will tell.

Which leads to the second twisted new law. If you convert THIS YEAR 2010, you have until October 2011 to decide if you like your decision, and if you change your mind before October 2011, you can declare that you actually did not convert - so no tax due! No harm in trying. The harm lies in not trying, because if October 2011 comes and you wish you had converted, too bad.

And now the third twist. Applicable for 2010 conversions only, the converted amount can be reported as income in 2010 or, if you prefer, you can report it as taxable income partially in 2011 and partially in 2012. Such a deal!

But Wait! There's more! In 2011, the tax rates revert back to the higher 2001 levels. Unless they change the law.

**Go figure.**

## TOPIC

**ARRA COBRA Subsidy Extended**

On 12/23/09, the eligibility period for the ARRA COBRA subsidy was extended to 2/28/10 from 12/31/09 and the maximum subsidy was extended from 9 to 15 months. This means that an employee terminated involuntarily without cause between 9/1/08 and 2/28/10 (an "Assistance Eligible Individual" or "AEI") is eligible for a subsidy of 65% of the cost of COBRA for up to 15 months. The subsidy is paid by the employer and funded by offset to the employer's payroll taxes. If an AEI previously exhausted the original 9 months' COBRA subsidy, the AEI may restart paying COBRA at subsidized rates. AEIs who kept paying for COBRA after the subsidy ran out can receive refunds/premium credits from employers for the extra amounts paid. Employers must notify individuals who were AEIs on or after 10/31/09 that they are eligible for up to 15 months of subsidy and may reinstate coverage if they stopped it after the subsidy expired. The notice must be given by 2/21/10.

The Department of Labor should publish a model notice. Check its website--<http://www.dol.gov/ebsa/>.

## TOPIC

**Planning Key to Liquor Licenses**

Planning a new business venture for the new year? If you're thinking about opening that cute little café or hot nightspot you've always dreamed about, it's important to think about the following:

**Timeline.** Depending on the county, it can take anywhere from two to six months to obtain a new liquor license or transfer an existing license. Keep this in mind in scheduling the Grand Opening.

**Logistics.** Applicants must submit extensive and detailed information. Unexpected hurdles can arise. Mainland or foreign owners/partners may have limited access to fingerprinting (some jurisdictions use incompatible electronic fingerprint technology). Floor plans or other required documents may need to be prepared, located, updated or corrected. Start compiling application materials as early as possible.

**Community Impact.** In some instances, community protest can delay or even derail an application. Discuss potential concerns with members of the community to facilitate approval.

**Compliance.** Know the requirements of applicable law. Keep in mind that each county has its own regulations and procedures. Get to know the Commission personnel in your jurisdiction. Ask questions and reply promptly to any Commission inquiries.

**Assistance.** Seek assistance when necessary. A delayed opening or liquor-free opening can prove more costly than the services of an attorney or other consultant.

The process can be daunting but with proper guidance, communication and attention to detail, it can be done. Cheers to the new venture!

1/21/10