



Capitalization & Debt Planning: An Uncommon Strategy

Rich Clouse, Goldberg, Clouse & Edgell

Most people only think of their credit card balances, car loans, mortgages, and student loans as costs. We see them as an opportunity for you to control your cash, and your cash flow, and reuse those dollars over and over again.

What is Capitalization?

When you capitalize your business or personal household, you are putting yourself in the position to act as your own bank. In most cases when you need a loan, you go to the local bank or car finance company, fill out all of the paperwork, and are hopefully approved for the loan. That process is not fun and sometimes you are not approved the way you had hoped. To capitalize your business or personal household, you deposit money into your personal capital account *, and you simply use your money to pay cash, and then make payments back to your own account. You decide how much each month and what interest rate to charge yourself. We suggest you become an “honest banker”, meaning that you pay yourself back at least what the bank would have charged you, or a little more. The questions that we ask our clients are: Who do you like better, the bank or yourself? And who would you rather send more money to each month?

Benefits of Capitalization

The end result of capitalizing your business or personal household is your ability to control the cash and payment structure. You could use cash for a car this year, and the same cash again for a college expense four years later. The uses for your capital account are as many as you can imagine. A few uses include: (i) credit cards; (ii) car loans; (iii) college costs; (iv) home improvements; (v) mortgages; (vi) real estate purchases; (vii) investments; (viii) loans to family members; (ix) lines of credit – personal or business; (x) weddings and vacations; (xi) paying down mortgages to avoid PMI charges, and more.

The concept and strategy of capitalization is an uncommon way to look at a very traditional way of debt planning and reduction of debt. We help our clients find the money to capitalize themselves; in many cases, by reviewing areas where they are unnecessarily and unknowingly being inefficient with their cash flow. Our first goal is to keep clients in a “cash flow neutral” position. That simply means

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allocating the same money as they are spending today more efficiently. As a result, they have the same lifestyle cash flow as before, but are accomplishing more financially.

We welcome any thoughts or questions on how these concepts & strategies might benefit you and your family or business. For more information, please contact Rich Clouse by phone at (614) 895-0123, or Rich@gcellc.com.

* Accounts that can be utilized as a personal capital account include: Money Market; Bonds; or cash value in a life insurance policy.



Issues to Address in Your Employee Handbook

By Tanya Nardone, Esq.

Nardone Law Group believes employee handbooks are important because they: (i) communicate expectations and benefits to your employees; (ii) provide certain protections to your dental practice; and (iii) are beneficial to employee morale. More specifically, you should include the following policies and procedures or address the following issues in your employee handbook:

1. At-Will Employment Disclaimer

The language in your employee handbook should clearly state that: (i) your employees are at-will; and (ii) the handbook does not imply or create any type of employment contract or right. In an at-will employment relationship, either the employee or the employer can terminate the relationship at any time, with or without cause or notice, so long as the reason for termination is not unlawful (e.g. does not violate anti-discrimination laws or result in wrongful termination). Furthermore, all employees should sign an acknowledgement that: (i) their employment is at-will; and (ii) they have read, understand, and have been given the opportunity to ask any questions about the handbook.

2. Equal Employment Opportunity and Anti-Harassment Policy and Complaint Procedure

Federal and state laws protect individuals from discrimination, including illegal harassment, based on race, color, religion, sex, and other similar protected classes. Educating your staff on discrimination and anti-harassment, and having clear discrimination and anti-harassment policies and corresponding complaint procedures in your employee handbook, is key to preventing and addressing potential discrimination and harassment concerns in your dental practice.

3. Employee Conduct

Your employee handbook should also provide: (i) performance and behavior expectations; and (ii) examples of prohibited conduct. An employee conduct policy should include rules that are designed to: (i) maintain a professional, pleasant, safe, and productive work place; and (ii) to promote a profitable business.

4. Paid and Unpaid Time Off Policies

All employees are interested in the leave time their employer provides. To ensure your employees are made fully aware, your employee handbook should

include policies and procedures on leave time, such as vacation, sick leave, holidays and any other paid or unpaid leave the practice provides.

5. Employee Attendance Policy

Your employee handbook should also implement and consistently enforce a strict attendance policy that includes a procedure to efficiently communicate an absence or tardiness. Because frequent absences could diminish the quality of care your dental practice provides, it is also important to inform your employees that excessive absences could result in disciplinary action or termination.

6. Workplace Safety

Your employee handbook should include a general workplace safety policy and all employees, upon hire, should complete a workplace safety acknowledgment. Your dental practice should also maintain policies and procedures on specific safety topics, such as bloodborne pathogens, hazard communication and emergency action plans, a fire prevention plan, and an exit route policy – as required by the Occupational Safety and Health Act (“OSHA”).

7. Confidentiality Policy

Federal and state laws require strict confidentiality with regard to patient information. It is also important for your dental practice to protect its business records and documentation. For these reasons, your dental practice should maintain a strict confidentiality policy. You should consult an attorney to discuss ways to make sure your practice stays in compliance with all applicable laws and implements the necessary policy and procedures to maintain confidentiality of patient information and practice business records and documentation.

If your practice does not have an employee handbook or you want to update your current employee handbook, you should work with an experienced employment attorney who can help you create a comprehensive and effective handbook for your dental practice.

Importance of Procedure-Specific Consent Forms

By Tanya Nardone, Esq., and Erin Myers, JD/MHA student

To protect you and your dental practice from potential lawsuits, it is important to ensure that you are utilizing procedure-specific consent forms. Each different dental procedure—including wisdom teeth extraction, implants, and periodontal surgery—presents its own unique risks to patients. These risks could lead to potential lawsuits where the risks and alternatives of the specific procedure were not properly explained and understood by the patient.

Steps You Should Take to Limit Liability

In assuring that you have obtained adequate informed consent from your patient for a specific procedure, you should:

- 1) Fully explain the risks, benefits, and alternatives, including the risks of not providing the treatment;
- 2) Ensure that the patient understands the specific procedure and risks;
- 3) Be sure to provide opportunities for the patient to ask questions; and
- 4) Ensure that the patient has expressly accepted the procedure and has assumed the associated risks via a written consent form.

Implied consent—where no written or oral contract needs to be made—may apply in (i) medical emergencies; (ii) where consent would have been given if the patient were able to grant consent; or (iii) when a reasonable person would have granted consent. But, dentists should rely on patients assuming the particular risks for specific procedures via written forms. These written forms may serve as proof of patient consent to the procedure and its unique risks in the event of a lawsuit. Furthermore, procedure-specific consent forms may even prevent potential lawsuits as patients will have a greater knowledge of their particular procedure.

Malpractice and Consent Forms

It is important to note that properly executed consent forms will not protect you in the event of malpractice. To prove that a provider committed malpractice, the patient must establish the existence of negligence, specifically that: (i) a duty of care existed; (ii) that duty was breached; (iii) an injury took place; (iv) and the provider's breach of the standard of care was the proximate cause of the injury. Therefore, in addition to providing adequate procedure-specific consent forms, it should go without saying that you should also follow proper standards of care.

Understanding Proper Methods for Deducting Automobile Expenses

By Nicholas Eusanio, Esq., LL.M

At Nardone Law Group, we believe that proper tax planning begins with adequate recordkeeping. One particular area of tax planning and documentation that results in much confusion for individuals and small businesses is how to deduct expenses for business use of an automobile. As a dentist and possibly a dental practice owner, you should properly deduct and maintain documentation to substantiate business automobile expenses for your practice.

Proper Deduction

Ensuring proper deduction of your automobile expenses is important. Although legitimate business travel, which may encompass driving to and from different offices, may be deductible, commuting to and from your home to your practice is not.

Further, you may deduct expenses for business use of an automobile by using: (i) the standard mileage rate; or (ii) the actual expense method, provided the taxpayer meets strict substantiation requirements showing:

1. The amount of each use of the vehicle (i.e., the mileage);
2. The time and place of the vehicle use; and
3. The business purpose of the vehicle use.

Generally, to satisfy these strict requirements, a taxpayer must maintain:

1. An account book, diary, log, statement of expense, trip sheets, or similar record, which records the required elements of expenditures or uses at or near the time of those expenditures or uses; and
2. Documentary evidence, such as receipts, paid bills or similar evidence, which, together are sufficient to establish each element of each expenditure or use that must be substantiated.

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Understanding Proper Methods for Deducting Automobile Expenses

To utilize the standard mileage deduction method, a taxpayer may multiply the number of business miles driven using a particular vehicle by the Internal Revenue Service's published standard mileage rate for the tax year. Again, your ability to deduct your dental practice's business expenses for use of a vehicle requires that you maintain proper documentation, as noted above. But there are a number of important exceptions that can disqualify you from using the standard mileage deduction. For instance—among other exceptions not listed here—you cannot use the standard mileage deduction if you:

1. Have claimed a depreciation deduction for the vehicle in question using any method other than the straight-line method; or
2. Have expensed the vehicle in question under Internal Revenue Code § 179.00174387.1

If you are unable, or simply elect not to use the standard mileage method, you may use the actual expenses method for deducting business use of a vehicle. Deductible automobile expenses include depreciation, licenses, gas, oil, tolls, lease payments, garage rent, parking fees, registration fees, repairs, tires, and car washes. But, again, the taxpayer must maintain adequate documentation to substantiate the expenses, as explained above.

Finally, one significant point of confusion that arises regarding the business vehicle expense deduction relates to the rules governing availability of the two expense deduction methods: standard mileage rate method, and actual expenses including depreciation method. We have simplified the general rules for determining which automobile expense deduction method is available, as follows:

1. A taxpayer can only use one of the above-noted methods for a particular vehicle each year. For example, a taxpayer could elect to take the standard mileage deduction for the Volvo, and the actual expenses with depreciation deduction for the Ford in a given tax year. But, the taxpayer could not use both methods on the same vehicle.
2. A taxpayer who wants to use the standard mileage deduction method for a particular vehicle must elect and use that method in the first year that the taxpayer puts the vehicle to business use. Otherwise, the taxpayer may not use the standard mileage deduction for that particular vehicle in later tax years.
3. Once a taxpayer has fully depreciated a business vehicle's value as part of using the actual expenses deduction method, the taxpayer may not thereafter use the standard mileage expense deduction method for the fully depreciated vehicle. In other words, once a taxpayer fully depreciates a business vehicle, the taxpayer must continue to use the actual expenses deduction method for that vehicle.

Ensuring that you are properly deducting automobile expenses may not be as simple as it seems at first glance. If you have any questions about your dental practice or tax planning, including which business vehicle expense deduction method to use and how to properly document your business use of the vehicle to substantiate the deduction, do not hesitate to contact one of our dental practice attorneys.



IRS Tax Tip – Last Minute Filers

Nardone Law Group would like to remind you to review your tax returns for common errors that could delay the processing of your returns. Here are some ways to avoid common mistakes:

File electronically. Filing electronically, whether through e-file or IRS Free File, vastly reduces tax return errors, as the tax software does the calculations, flags common errors and prompts taxpayers for missing information. And best of all, there is a free option for everyone.

Mail a paper return to the right address. Paper filers should check IRS.gov or their form instructions for the appropriate address where to file to avoid processing delays.

Fill in all requested information clearly. When entering information on the tax return, including Social Security numbers, take the time to be sure it is correct and easy to read. Also, check only one filing status and the appropriate exemption boxes.

Review all figures. While software catches and prevents many errors on e-file returns, math errors remain common on paper returns.

Get the right routing and account numbers. Requesting direct deposit of a federal refund into one, two or even three accounts is convenient and allows the taxpayer access to his or her money faster. Make sure the financial institution routing and account numbers entered on the return are accurate. Incorrect numbers can cause a refund to be delayed or deposited into the wrong account.

Sign and date the return. If filing a joint return, both spouses must sign and date the return. E-filers can sign using a self-selected personal identification number (PIN).

Attach all required forms. Paper filers need to attach W-2s and other forms that reflect tax withholding, to the front of their returns. If requesting a payment agreement with the IRS, also attach [Form 9465](#) to the front of the return. Attach all other necessary schedules and forms in the sequence number order shown in the upper right-hand corner.

Keep a copy of the return. Once ready to be filed, taxpayers should make a copy of their signed return and all schedules for their records.

Request a Filing Extension. For taxpayers who cannot meet the April 15 deadline, requesting a filing extension is easy and will prevent late filing penalties. Either use Free File or [Form 4868](#). But keep in mind that while an extension grants additional time to file, tax payments are still due April 15.

Upcoming Events and Deadlines

April 15, 2014	IRS deadline for individuals to file your 2013 income tax return and pay any tax due.
April 18, 2014	Nardone Law Group is closed in observance of Good Friday.

Quote of the Month

Precious treasure remains in a wise man's dwelling; but a foolish man devours it.
-Proverbs 21:20

Nardone Dental Practice Advisor



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