Turn your losses into wins

Text by Laura K. Barooshian

The year 2008 was a year of unprecedented volatility. In some cases, your portfolio may not have recovered from the market lows.

If you have unrealized losses, worthless securities or bad debts, all is not lost if you're an investor who knows how to turn those losses into wins.

Following are several strategies available for turning unrealized losses into losses that can be claimed on your personal income tax return for 2009.

Worthless securities. If a security becomes completely worthless during the tax year, the resulting loss can be claimed on your personal tax return during that year.

In order to prove that a security did indeed become worthless during the tax year, the following must be proven:

1. That the individual had an adjusted cost basis in the security,

2. That the security was not worthless during the previous year, and

3. That the security was totally worthless by the end of the current year.

If these three items are proven, then a capital loss, up to the adjusted cost basis in the security, is allowed on the tax return.

Selling to an unrelated party. Another option available for investors to recognize a capital loss is to sell securities to an unrelated party.

While IRS regulations do not specify the definition of unrelated parties, they do define related parties.

Related parties in a taxpayer's family include his/her brothers and sisters (both whole and half blood), spouse, ancestors and lineal descendants.

Other related parties include controlled groups, grantors or fiduciaries of a trust, and any entity over which the investor maintains control (S corporation, C corporation, exempt organization).

Some common examples of unrelated parties would include aunts and uncles, cousins and neighbors.

All sales to unrelated parties must have true economic substance and be a fully taxable event.

Therefore, the property must be sold and be gifted, and the title of the property in question must be transferred to the buyer. The seller cannot have the right to take back the property.

Non-business bad debts. Individuals are allowed to deduct the amount of any debt that becomes wholly worthless during the taxable year. Most loans by individuals will be considered non-business loans unless the individual is in the business of loaning funds.

While the loans cannot be connected to the individual's trade or business, the debt must still be a bona fide debt and must arise from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money.

If it can be determined that a non-business bad debt has occurred in the tax year, a short-term capital loss is allowed on your personal tax return for that year. A non-business bad debt must become totally worthless to be deducted; there is no deduction allowed for partial worthlessness.

In conclusion, while one or more of these strategies may improve your tax position, there are a number of exceptions and complicated rules that apply. It is best to contact your tax advisor for assistance in these situations.

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TRANSACTIONS

Garber | FCm Travel Solutions, Chestnut Hill, has begun to provide corporate travel services for Aetna as part of more than $40 million in new corporate travel accounts added in 2008. Other new clients include Kongsberg Automotive, Curam Software and retailer Collective Brands, which includes Payless Shoe.

Boston-Power, Westborough, has received $55 million in new funding to use for scaling manufacturing, sales, marketing and R&D to meet global demand for Sonata Lithium-ion batteries.

Co-owners **Elena Lelchuk** and **Jessica DeGuardiola**, relocating from Palm Beach, Fla., have opened **5s Public Relations & Special Events** in Boston's Fort Point Channel district. The full-service public relations agency specializes in beauty, fashion and luxury lifestyle media relations, with services including special event conception and management, crisis communications, product placement and editorial coverage.