Nexus Financial Monthly

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Spring has sprung and tax season will be coming to a close. As you start your spring cleaning, don't forget to clean out your financial files, too. Nexus is once again providing free shredding service to all clients. Bring your shredding to our Wexford office between April 26th through May 7th and Cintas will do an on-site shredding on May 8th.

Check out our articles of interest this month. Take the time to enjoy the burst of color and renewal that spring brings. We are only an e-mail or phone call away with any questions, concerns or comments!

The Nexus Team

April 2012

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Supercommittee Failure Sets Stage for Election Year Debate

As part of a last-minute agreement ending August's debt ceiling standoff, legislation was signed into law calling for the creation of a deficit reduction "supercommittee." The Joint Select Committee on Deficit Reduction, comprised of 12 members (6 Democrats and 6 Republicans) from both the House and Senate, was charged with finding ways to reduce the federal deficit by at least $1.2 trillion, and directed to report its findings by November 23, 2011. Of course, the outcome was well publicized--the committee announced that it was unable to reach a deal, and subsequently disbanded. Seen by many as the last best hope to reach a compromise, the committee's failure casts the debt ceiling as one of several major issues that will ultimately be addressed by the coming election.

Automatic cuts

Built into the legislation that gave birth to the supercommittee was a default provision--with the committee's failure to reach agreement, $1.2 trillion in broad-based spending cuts are automatically triggered over a nine-year period beginning in January 2013 (the term for this is "automatic sequestration"). The automatic cuts are split evenly between defense spending and non-defense spending. Although Social Security, Medicaid, and Medicare benefits are exempt, and cuts to Medicare provider payments cannot be more than 2%, most discretionary programs including education, transportation, and energy programs would be subject to the automatic cuts.

The threat of the automatic cuts was conceived as a way to encourage the supercommittee to reach a compromise. With the failure of the supercommittee to reach agreement, however, these imminent cuts are now the source of concern. Parties on both sides find the cuts too broad, and efforts to short-circuit the automatic cuts, at least those affecting defense spending, have already begun--though the President has suggested that he would veto any such legislation.

New debt ceiling crisis possible in 2013

The legislation that established the supercommittee also put in place what amounted to a piece of political theater that allowed for temporary, short-term incremental increases to the debt ceiling limit. Effectively, the President was able to get additional borrowing authority, while allowing Congress to go on record opposing it by voting for disapproval--but without really being able to prevent the debt ceiling increase from taking effect. The last debt-ceiling increase made under this legislation was calculated to carry us through the current election cycle. It might not be long after the election is decided, however, that the debt ceiling limit will again need to be addressed.

Same basic divide remains

The supercommittee failed in its mission because the parties involved have fundamentally different visions of how to address our country's debt problem. It's a gross oversimplification, but the debate largely boils down to what degree deficit reduction efforts should focus on increasing revenue (and how to accomplish that), or on reducing government spending, including addressing the long-term costs associated with entitlement programs such as Social Security, Medicare, and Medicaid.

Of course, these approaches aren't mutually exclusive; for example, the bipartisan Bowles-Simpson commission (the National Commission on Fiscal Responsibility and Reform) issued a December 2010 report that recommended a combination of both approaches. The fact that we're in an election year complicates matters, however, and may make compromise less likely, if not impossible. That's because each element of a potential compromise will have significant political ramifications. In the end, the course taken may depend entirely on the post-election political landscape.

Non-Equity Alternatives to Rock-Bottom Yields

Foreign bonds

Yields overseas can be attractive, and they don't necessarily involve investing in countries whose economies or governments are in flux. For example, as of late December, AAA-rated Australian sovereign bonds were paying 3.7%. However, remember that in addition to the risks involved with all bonds, such as interest rate risk, inflation risk, and credit risk, investing overseas involves currency risk; a change in the value of the U.S. dollar relative to its Australian counterpart could eliminate any yield advantage. Also, just as government-sponsored enterprise bonds are not necessarily backed by the full faith and credit of the U.S. Treasury, all foreign bonds are not necessarily backed by their sovereign governments.

Before investing in an MLP or mutual fund, make sure to carefully consider the objectives, risks, charges, and expenses contained in its prospectus, which is available from the fund or partnership. Read it carefully before investing.

As interest rates have fallen to record lows and stayed there in recent years, the yield on your savings may be stuck in neutral. If you've focused on capital preservation and kept your assets in U.S. Treasuries, a money market account, or certificates of deposit, you may have minimized the chance of the financial equivalent of a car crash. However, you also may not be happy letting your portfolio's engine idle forever.

Dividend-paying stocks are one solution, but last year's volatility has made many investors wary of committing more money to equities. Though past performance is no guarantee of future results, for those who need something more than 2% 10-year Treasury yields and who can handle the additional risks involved, there are other alternatives that could potentially boost overall yield.

Corporate bonds

Many corporations have taken the opportunity presented by low rates to refinance their corporate debt and lower borrowing costs. Though any company could still default on its obligations, of course, and all bonds face market risk, stronger balance sheets have helped lower the overall risk of corporates as a whole. The spread between the yield on Moody's Aaa-rated industrial bonds and 10-year Treasuries at the end of 2011 was roughly 2 percentage points. For a Baa bond (one notch above noninvestment-grade), the difference was over 3 percentage points. Yields on noninvestment-grade bonds (so-called high-yield or "junk" bonds) were higher still, roughly 5% above 10-year Treasuries.

Bank loans

Floating-rate bank loans (also known as senior loans, leveraged loans, or senior secured loans) are a form of short-term financing for companies that usually do not rate an investment-grade credit rating. The rate is typically tied to the London Interbank Offered Rate (LIBOR) and adjusts with it, generally quarterly. As with high-yield bonds, the lack of an investment-grade credit rating means bank loans must offer a higher yield.

As with all debt, investors still run the risk of default. However, bank loans also have benefitted from the favorable corporate finance picture noted above. And because bank loans typically are a company's most senior debt obligation and are secured by some form of collateral, investors have typically recovered a higher percentage of their investment in the event of default than with high-yield bonds secured only by a company's promise to pay.

Finally, as with all bonds, as bond yields rise, the price falls, which could cut overall return enough to offset any yield advantage. For the majority of investors, the most accessible way to invest in floating-rate bank loans is through a mutual fund or exchange-traded fund.

Master limited partnerships

Master limited partnerships (MLPs) can not only offer an income stream in the form of quarterly cash distributions; they also may offer tax benefits. An MLP that receives 90% of its income from qualified passive sources such as oil, natural gas, real estate, or commodities may qualify for tax treatment as a partnership rather than a corporation. If it does so, the MLP is not taxed at the partnership level, and may pass on a greater share of its earnings to the limited partners (i.e., individual investors), who also receive a proportionate share of any depreciation, depletion allowances, tax credits, and other tax deductions.

Many MLPs are managed so as to ensure that those tax benefits offset or eliminate any current tax liability on the cash distributions, which are considered a return of capital and used to adjust the individual partner's cost basis upon sale of the MLP units. An MLP that pursues this strategy successfully can in effect provide a tax-deferred ongoing income stream, which can be particularly appealing to investors in a high income tax bracket. Yields on MLPs vary greatly, depending on the particular MLP's assets and the way in which the general partner manages the business.

MLPs have risks. Because they can be relatively illiquid, an investor should plan to stay invested for a number of years, and individual investors' collective share of cash distributions may decrease over time. Also, the tax issues involved can be complex; for example, MLPs can create problems if held in a tax-deferred retirement account. Finally, commissions and other front-end costs can reduce the amount available for investment.

Data sources: *Corporate bond spreads: Federal Reserve System report on selected interest rates (H.15) as of December 29, 2011. Rates quoted are for Moody's Aaa- and Baa-rated bonds. High-yield bond spread: calculated based on Merrill Lynch High-Yield 100 as quoted on Wall Street Journal Market Data Center as of December 29, 2011.*

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Asset Protection Strategies Beyond Insurance

These asset protection strategies generally involve transferring legal ownership of assets to other persons or entities, such as corporations, limited partnerships, and trusts. The logic behind shifting ownership of assets is fairly straightforward: your creditors can't reach assets you don't own.

You've worked hard to accumulate your assets and property; that's why it's so important to take measures to protect your wealth. Often, the simplest way to protect assets is by shifting the risk to an insurance company. But insurance may not provide all the protection you need or it might not be available, so you may need to consider other strategies.

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Shifting assets to a C corporation

The law views a C corporation as a separate legal entity. As such, business assets owned by a C corporation are considered separate from your personal assets, which will generally not be at risk for the liabilities of the business.

However, protection from liability may be lost if the business does not act like a business, such as when the business acts in bad faith, fails to observe corporate formalities (e.g., organizational meetings), has its assets drained (e.g., unreasonably high salaries paid to shareholder-employees), is inadequately funded, or has its funds commingled with shareholders' funds.

Shifting assets to other entities

A limited liability company (LLC), limited liability partnership (LLP), or family limited partnership (FLP) is a legal entity that can be used to separate business assets from personal assets.

An LLC is generally taxed like a partnership with income and tax liabilities passing through to its members (and not double-taxed as a C corporation), but it is viewed as a separate legal entity and can be used to own business assets, protecting your personal assets from business claims against the LLC.

If you have business partners, an LLP may protect you from the professional mistakes of your partners. That is, if one of your partners is sued for negligence, and the LLP is also named in the lawsuit, the partner sued may be liable personally for any judgment, but the LLP should protect your personal assets from the reach of any judgment creditor of the LLP.

An FLP is a limited liability partnership formed by family members only. Generally, a creditor can only obtain a charging order against the FLP, which allows the creditor to receive any income distributed by the general partner (who is usually a family member). It does not allow the creditor access to the assets of the FLP. Although each of the entities discussed above are alike in that they can protect your personal assets, they are very different in other ways. Make sure the entity you choose satisfies all of your needs.

Shifting assets to a trust

There are many different types of trusts that can be used to protect assets. A protective trust may protect assets intended to eventually pass to another person. For example, you transfer assets to a protective trust naming yourself and another as beneficiaries. The trust allows you to receive only income from the trust, with no access to the trust principal. At your death, the assets are to pass to the other beneficiary. If you're sued, the creditor can only receive your right to trust income, but not the assets of the trust. These trusts usually contain a spendthrift provision that makes it difficult for creditors to reach trust assets to satisfy claims against trust beneficiaries.

The laws in a few states, such as Nevada, Alaska, and Delaware, enable you to set up a domestic self-settled trust. You can create this type of trust, transfer assets to the trust, and name yourself as beneficiary. The trust gives the trustee discretion over whether or when to distribute trust property or income to beneficiaries. Creditors can only reach property that the beneficiary has a legal right to receive. Therefore, the trust property will not be considered the beneficiary's property, and any creditors of the beneficiary, including yourself, will be unable to reach it.

Many foreign countries have laws that make it difficult for creditors to reach trust assets held in that foreign country. In order for a creditor to reach assets held in a foreign or offshore trust, a court must have jurisdiction over the trustee or the trust assets. Because the trust is properly established in a foreign country, obtaining jurisdiction over the trustee in a U.S. court action will not be possible. Thus, a U.S. court will be unable to exert any of its powers over the offshore trustee.

Protecting assets doesn't include fraud

Protecting your assets by legally repositioning them does not extend to actions intended to hide assets or defraud creditors. So, make sure you implement any asset protection strategy before there is any hint of trouble, and be sure to carefully document that you are doing so for sound business or other reasons.

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Securities and Advisory Services offered through Commonwealth Financial Network, Member FINRA/SIPC, a Registered Investment Adviser.

What is an e-closing?

An "e-closing" refers to a real estate closing process where the parties to the transaction (e.g., sellers, buyers, brokers, and attorneys) can access closing documents online so that they can be reviewed and electronically signed prior to the actual closing date. And, instead of receiving a huge stack of papers, the parties get copies of pertinent documents on a CD or other media. Electronic closings can make the process easier, faster, and greener.

E-closings (as well as other paperless transactions) are possible for two reasons. First is the acceptance by federal law (under the Electronic Signatures in Global and National Commerce Act, or E-SIGN) of electronic signatures in lieu of pen and ink (or wet) signatures. Second, new technology is being offered by several companies that allows for a safe, secure, and password-protected process that prepares, transmits, and stores legally binding documents, such as disclosures, loan instruments, and settlement statements. For example, members of the mortgage finance industry (including Freddie Mac) are implementing this technology because it can save time, money, and trees.

E-closings allow the parties to review documents beforehand, facilitating communication among the parties, and reducing the chance of mistakes or other problems on closing day. Once all of the documents have been approved, the parties affix their signatures through a digital pad or stamp, or other device that automatically encrypts it so that it can't be altered. Each party signs once, and the captured signature is automatically applied to all the signature blocks (so, no more hand cramps or scribbled signatures). Documents that require a witness and/or notary can also be signed electronically.

If all goes well, the parties may not even need to actually meet on closing day. Deeds and mortgages can be sent electronically to the proper registry for recording. Any disbursements can also be made electronically. And finally, the documents can be digitally archived for future use.

My office has gone paperless. How do I go paperless at home?

Since the start of the computer age, business offices have been going paperless because it saves time, space, and money; it's easier to stay organized; and there's less impact on the environment. So, how can you go paperless at home? Here are some tips.

First, though it may seem overwhelming, start slowly making easy changes that will move you towards less and less paper.

First arrange to get your bills electronically, and pay them online. Set up automatic payments with your bank for recurring payments, or consider a bill-paying service. Otherwise, you may need to create a system reminding yourself to pay bills on time so that you don't incur past due fees or interest charges.

Sort through your existing paper. Scan all documents you need to keep and save to PDF. Make sure to name your e-files so they're easily identifiable and accessible, and keep them well-organized. Shred (and recycle) documents you do not need to keep, especially if they show personal information, such as account numbers or your Social Security number. Invest in a good scanner and shredder.

Keep your e-files safe and secure by adding a firewall and using software that provides adequate security. Back up your computer at least once a month using a CD, external hard drive, or an online remote back-up service (i.e., in the "cloud"). Use logins and passwords that are secure, and try to suppress the urge to repeat them. There are online tools that store this type of information.

Keep things like calendars, address books, recipes, and photos digitally. Toss things you tend to keep for sentimental reasons, like holiday cards and ticket stubs. Purge magazines, newspapers, journals, and books from time to time, and get them online if possible.

Contact senders of junk mail and catalogs you don't want and ask them to remove your name from their mailing list. They may not do it, but you can try.

Remember, though, there are paper files you should keep, such as medical records, Social Security cards, warranties and manuals, and tax, legal, and insurance documents. Keep these vital records in one safe location.

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