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Year-End Wisconsin Registration for Gain Exclusion and Deferral

As the year-end is quickly approaching, we would like to remind you to consider whether your business is eligible to register with the Wisconsin Department of Revenue to enable certain owners of the business to qualify for potential Wisconsin income tax benefits. These benefits are available only to certain owners of “qualified Wisconsin businesses” that register with the Wisconsin Department of Revenue.

For the 2014 year, the business must register online by Thursday, January 1, 2015 by clicking the “Register” button at the following link: <http://www.revenue.wi.gov/businesses/qualified/index.html>.

As described in a publication from the Wisconsin Department of Revenue, individual owners of a qualified Wisconsin business (including individuals who indirectly own their interest through a flow-through entity) may be able to take advantage of Wisconsin long-term capital gain deferral or long-term capital gain exclusions. In order to qualify for the capital gain deferral, the claimant generally must incur a long-term gain on the sale of a capital asset and reinvest the entire gain in a qualified Wisconsin business within 180 days after incurring the gain. In order to qualify for the Wisconsin long-term capital gain exclusion, the claimant generally must invest in a qualified Wisconsin business after 2010, hold the investment continuously for five years, and the business in which the investment is made must be a qualified Wisconsin business for the year in which the investment is made and at least two of the following four years.

Given these potential benefits, we recommend that you register your business with the Wisconsin Department of Revenue each year that it qualifies. At the end of the business’ tax year immediately preceding the registration, the business must meet the following requirements:

- The business has at least two full-time employees;
- The Wisconsin payroll of the business is at least 50% of its total payroll; and
- The value of real and tangible personal property owned or rented and used in Wisconsin is at least 50% of the value of all real and tangible personal property owned or rented and used by the business.

Please contact any member of Godfrey & Kahn’s Corporate or Tax teams if you have any questions regarding your business’ eligibility for registering as a qualified Wisconsin business or whether any of the owners of your business may be able to qualify for these Wisconsin tax benefits.

The information contained herein is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.