



The Professional Tax Solution

## Incentives for Businesses

Tax breaks for businesses include extended bonus first year depreciation with a one-year optional extension to forego bonus depreciation for otherwise deferred credits, increased section 179 expensing, and tax-deferred debt forgiveness income on repurchase of qualifying debt.

### Bonus Depreciation

Under the new law, the 50% first-year bonus depreciation enacted by the 2008 Economic Stimulus Act is extended through December 31, 2009, and made retroactive to January 1, 2009. The additional year of bonus depreciation for certain properties is also extended through 2010. In general, property must be acquired before January 1, 2010 (or January 1, 2011 for certain property).

In addition, the new law places higher caps on vehicle depreciation, with the regular dollar cap raised by \$8,000 for vehicles placed in service in 2009. The higher cap is effective January 1, 2009. Limits are \$10,960 for autos, and \$11,160 for light trucks and vans.

### Refundable Credits

Instead of taking bonus depreciation, businesses can now monetize accumulated AMT and R&D credits. Originally, this election applied to 2008 only; however, the new law extends the option to property that qualifies for bonus depreciation and was placed in service through 2009.

### Section 179 Expensing

The 2008 Economic Stimulus Act increased the section 179 expensing amount to \$250,000 and increased to \$800,000 the threshold for reducing the deduction. Under the new law, these amounts will remain the same. (Without the extension, the expensing amount would have been limited to \$125,000, and the maximum deduction threshold \$500,000.)

### Longer NOL Carryback Periods

Under the new law, a qualified small business with average gross receipts of \$15 million or less can deduct a 2008 loss through a NOL carryback period of up to five years. For NOLs incurred in 2009, the normal carryback period of two years will apply.

### Estimated Tax Burden Reduction

Individuals whose incomes are primarily from a small business are generally required to make quarterly estimated tax payments based on 100% of their tax returns. Under the new law, these individuals can compute their estimate

amounts based on 90% of the tax liability for the previous year. AGI must be less than \$500,000, and the taxpayer will be required to certify that more than 50% of gross income on the prior-year return was from a small business.

### **Work Opportunity Tax Credit**

The Work Opportunity Tax Credit can be elected by employers who hire individuals from one or more of certain targeted groups. Under the new law, the existing Work Opportunity Tax Credit now covers two additional targeted groups: (1) unemployed veterans, and (2) disconnected youth. The new categories apply to taxpayers who are hired and begin working for the employer in 2009 or 2010.

### **Cancellation of Indebtedness**

Beginning in 2014, certain businesses can elect to recognize cancellation of indebtedness income over five years for certain types of business debt that was repurchased by the business after December 31, 2008, and before January 1, 2011. Under the new law, an “applicable debt instrument” refers to any debt instrument issued by a C corporation or other person in connection with the conduct of a trade or business by such person. The term “debt instrument” includes a bond, debenture, note, or certificate, or any other instrument constituting indebtedness.

### **Qualified Small Business Stock (QSBS)**

Under the new law, an investor may exclude 75% of the gain from the sale of certain QSBS that was (1) acquired after the date of enactment and before January 1, 2011, and (2) held for more than five years. To qualify, a small business must be an active trade or business with \$50 million or less in assets.

### **Built-in Gain Period for S Corps**

For C corps that convert to S corps in tax years starting in 2009 and 2010, the holding period for assets subject to the built-in gains tax will be seven years. Prior to the new law, this period was ten years.

### **Notice 2008-03 Repealed**

Notice 2008-83 provided NOL limitation relief for corporations acquiring a financially strapped bank. The new law repeals this notice effective for ownership changes after January 16, 2009.

### **New Markets Tax Credit**

The New Markets Tax Credit is increased under the new tax law. Maximum allocations of \$5 billion are authorized for 2008 and 2009.

### **Temporary Subsidy for COBRA Continuation**

For a worker who is involuntary terminated between September 1, 2008, and January 1, 2010, the Recovery Act allows him or her to elect to pay 35% of COBRA coverage and have it treated as paying the full amount. Although the former employer is required to pay the remaining 65%, the employer will be reimbursed by crediting those amounts against income tax withholding and payroll taxes that it would otherwise have to pay.