



The New Tax Relief Act

Something for Everyone

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Congress passed, and the President signed, what is now known as the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. This Act answers the lingering question of what will happen to the tax relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003. These relief provisions, commonly known as the “Bush tax cuts,” were set to expire at the end of 2010. The Act also extends some popular tax credit enhancements from 2009, including the American Opportunity Tax Credit (a credit for higher education expenditures) and improvements to the Child Tax Credit and the Earned Income Tax Credit.

The new Act accomplishes most of its effects by extending the sunset date of the above-mentioned provisions by two years – through 2012. This means not only that the rates in these provisions (including the preferential long-term capital gain rates and 15% tax rate on qualifying dividends) are extended, but many other aspects of these Acts are extended as well, including improvements to the Adoption Credit, the Dependent Care Credit, the Child Tax Credit, and the reductions in the phase-outs of itemized deductions and personal exemptions.

In addition to extending the sunset date of these provisions, the new Act includes many other provisions. These include:

Estate Tax

The Estate Tax is reinstated for 2011 and 2012, with a \$5 million exemption and a maximum rate of 35%. Any unused exemption of the first spouse to die can be transferred to the surviving spouse, so that a married couple can get a total exemption of \$10 million. Beginning in 2011, the Estate Tax and Gift Tax exclusions are reunified.

AMT Patch

A perennial problem in recent years, the Alternative Minimum Tax (“AMT”) patch is now in place for 2010 and 2011 (but not 2012). This will prevent millions of taxpayers (but not everyone!) from becoming subject to the AMT by increasing the AMT exemption amount.

Bonus Depreciation / Asset Expensing

The new Act increases bonus depreciation to 100% for qualifying assets placed in service after September 8, 2010 and before January 1, 2012 (**yes, the retroactive date back to September, 2010 is correct**). Bonus depreciation of 50% applies to qualifying assets from January 1, 2010 to September 8, 2010. For 2012, the bonus depreciation rate returns to 50%.

Section 179 of the Code allows taxpayers to take an immediate expense deduction for the cost of newly-acquired assets in lieu of depreciating them over time. The enhancements to § 179 in the recent Small Business Act (\$500,000 limit, phasing out as qualifying asset additions exceed \$2 million) are retained for 2011, but reduce to \$125,000 (phase out beginning at \$500,000) for 2012.

Renewable Energy Credits

The § 40A Biodiesel Credit is reinstated for 2010 and 2011, and the § 40 Ethanol Credit is extended through 2011. The excise tax credits on these fuels are extended as well. The grant program for specified energy projects (the “section 1603” grants) is also extended for one year.



Extenders

Numerous popular provisions in the Code expire each year (or two, in some cases) because making them permanent would be too expensive for some in Congress. The list of these “annual extenders” has been growing in recent years. The new Act reinstates many of these for 2010 and 2011, including:

- the Research Credit
- the Work Opportunity Tax Credit
- the New Markets Tax Credit
- the 15-year recovery period for qualifying leasehold improvements, restaurant buildings and improvements, and retail improvements
- the 100% gain exclusion for certain small business stock under § 1202
- the \$250 above-the-line deduction for school teacher classroom expenses
- the state and local sales tax deduction
- the above-the-line deduction for tuition and related expenses

Charitable Giving Extender

The new Act also reinstates the provision allowing tax free withdrawals from IRAs made directly to qualifying charities. Because of the late date of the new Act, a special rule is included, allowing qualifying charitable distributions made in January 2011 to be treated as having been made on December 31, 2010.

Payroll Tax Break

Employees and self-employed taxpayers will get a 2 percent break on the OASDI portion of their FICA or self-employment tax for one year – 2011 (or their tax year beginning in 2011, if they are on a fiscal year). For employees, the 6.2% rate is reduced to 4.2%, and for the self-employed, the 12.4% rate is reduced to 10.4%.

Conclusion

In short, this new Act gives us “more of the same” on some level, as the income tax rates we’ve grown accustomed to will remain with us for two more years, and most of the usual “annual extender” provisions have been extended. On the other hand, the new Act contains several new and potentially valuable provisions, just in time for the New Year.

To learn more contact a Boulay tax advisor at 952.893.9320 or learnmore@bhz.com.