



Small Business Jobs Act of 2010

This newsletter provides you with information on the Small Business Jobs Act of 2010 (HR 5297), that the U.S House and Senate passed in September 2010. This bill expands loan programs through the Small Business Administration (SBA), strengthens small business preference programs for federal government projects, provides incentive for exporters, and offers a variety of small business tax provisions.

TAX PROVISIONS

Many provisions are targeted to assist small business operations through additional tax deductions, tax credits or exclusions.

Bonus Depreciation: The 50% bonus depreciation provisions that originally expired at the end of 2009 have been extended through December 31, 2010.

Section 179: Section 179 limits of \$250,000 had originally been extended through December 31, 2010. The Act increases Section 179 to \$500,000 and extends it through December 31, 2011. The Act also increases the phase-out limit from \$800,000 to \$2,000,000 for 2010 and 2011. Section 179 will drop to \$25,000 in 2012 according to the Act.

Section 179 Real Property: In possibly the most significant tax change of all, Section 179 for 2010 and 2011 is now allowed for up to \$250,000 for qualified leasehold improvements; qualified restaurant property and qualified retail property. *This effectively converts a 39 year life asset to an expense for 2010 or 2011!* And if a taxpayer spends more than \$250,000 in 2010 the excess may be carried over and deducted in 2011. This carryover will not apply to 2012.

Amended Section 179: The ability to amend a return to invoke, revoke or modify Section 179 has been extended through December 31, 2011.

Health Insurance: For 2010 only, the self employed health insurance deduction will be deductible against self employment income. *Although this sounds minimal, it could save*

sole proprietors 15% in Self Employment taxes.

Business Credits: The carryback period for eligible small business credits is extended from one to five years. The bill also allows taxpayers to use eligible small business credits to offset both regular and alternative minimum tax liability. Both provisions are effective for credits determined in tax years beginning after 2009.

S Corporations: S Corporation built in gains realized in 2011 (only) will not be subject to the tax if the S Corporation has been in existence for at least five years before 2011. 2009 and 2010 holding periods are still seven years and 2012 holding periods will revert to ten years. Six or seven year old S corporations getting ready to sell old built in gain assets need to hold off until January 1, 2011.

Cell Phone Listed Property: For years beginning after December 31, 2009 cell phones used primarily for business purposes will no longer be considered listed property, meaning a logbook of business usage will no longer be required.

Start up Expenses: The bill increases the Section 195 deduction for trade or business startup expenses from \$5,000 to \$10,000 for tax years beginning in 2010 and 2011. The start of the limitation on the deduction is increased from \$50,000 to \$60,000. So for 2010 and 2011 the amount of the deduction is the lesser of (1) the amount of the startup expenses or (2) \$10,000, reduced (but not below zero) by the amount the startup expenditures exceed \$60,000.

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Qualified Small Business Stock: Small business stock purchased after September 27, 2010 and before January 1, 2011 and held for at least five years will be eligible for a 0% tax rate upon sale.

REVENUE RAISERS

Section 457 Plan Roth Contributions: The bill allows participants in government section 457 plans to treat elective deferrals as Roth contributions, effective for tax years beginning after 2010.

Rollovers to Roth Accounts: Section 457 retirement accounts would be eligible for rollover to Roth IRAs after December 31, 2010 and similar rollovers would be allowed to employer sponsored Roth's from certain qualified plans (401(k), 403(b)).

Reporting Rental Income. The bill makes recipients of rental income from real estate generally subject to the same information reporting requirements as taxpayers engaged in a trade or business. In particular, rental income recipients making payments of \$600 or more to a service provider (such as a plumber, painter or accountant) in the course of earning rental income are required to provide an information return (typically Form 1099-MISC) to the IRS and to the service provider. The provision will apply to payments made after December 31, 2010.

Annuitization: The bill permits a portion of an annuity, endowment or life insurance contract to be annuitized while the balance is not annuitized, provided that the annuitization period is for ten years or more, or is for the lives of one or more individuals.

Information Returns: The bill also modifies the penalties for failure to file a correct information return.

FINANCING PROVISIONS

Lending Fund: The bill created a Small Business Lending Fund to address ongoing small business financing needs by allowing the Treasury Department to make capital investments in eligible financial institutions to increase credit available for small businesses. The new \$30 billion small business lending fund provides capital to small banks and offers incentives to them to increase lending to small businesses

Loan Guarantees: The Small Business Jobs Act of 2010 extends the Small Business Administration (SBA) Recovery Loan Program, increasing the government's guarantees to 90% and eliminates fees through December 31, 2010.

Loan Maximums: Permanently increases the maximum loan size for SBA loan programs. The 7(a) and 504 loans

are increased from \$2 million to a maximum of \$5 million and increased the 504 manufacturing-related loans from \$4 million to \$5.5 million. The SBA Express loans also increased from \$350,000 to \$1 million. The Act also permanently increases the maximum for SBA micro-loans from \$35,000 up to \$50,000 to help with start-up costs.

Retail Floor Refinancing: Extends the SBA Dealer Floor Plan lending program designed for businesses who sell vehicles, RV's and boats. The bill also creates a floor plan refinancing program, under which the SBA can guarantee an open-ended extension of credit to small businesses if the loan is used to purchase certain eligible retail goods for resale.

State Small Business Credit Initiative: A new \$15 billion in lending through a newly created State Small Business Credit Initiative (SSBCI) program that is designed to leverage private-sector lenders to extend additional credit. The Act establishes the SSBCI for a period of 7-years and the federal government will allocate funds to states with capital access programs. Specific terms are still being developed but these loans will be for up to \$5 million and to businesses with fewer than 500 employees. This will be a public-private partnership and Vermont already has several lending programs in place that may qualify for this federal funding.

Nonprofit Lenders Pilot: The bill creates an intermediary lending pilot program to allow certain private nonprofit entities that seek or have been awarded SBA loans to make loans to small businesses. The pilot will allow \$20 million in loans each year from 2011 to 2013 to not more than 20 eligible entities. Eligible nonprofit organizations may apply for up to \$1 million for the purpose of lending up to \$200,000 to eligible small businesses.

Conclusion. This Newsletter is intended to give you information on the Small Business Jobs Act of 2010. Please don't hesitate to call us if you would like more details or would like to schedule a strategy session.

**Contact us to schedule your planning session.
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