

Overview of Federal Tax Relief for Businesses

The American Recovery and Reinvestment Act of 2009 has made the Internal Revenue Service (IRS) responsible for implementing several tax changes that will provide tax incentives for businesses and spur job growth. The following are key tax provisions that can directly impact businesses. Please check back for updates as more information becomes available.

Information presented below provides only a summary of the opportunities made available through the passage of the American Recovery and Reinvestment Act of 2009 and individuals should seek a detailed explanation of opportunities available through the American Recovery and Reinvestment Act, U.S. Internal Revenue Service, or the U.S. Department of Treasury's websites.

5-Year Carryback of Net Operating Losses for Small Businesses

Delayed Recognition of Certain Cancellation of Debt Income

Election to Accelerate Recognition of Historic AMT/R&D Credits

Extension of Bonus Depreciation

Extension of Enhanced Small Business Expensing

Incentives to Hire Unemployed Veterans and Disconnected Youth

Section 179 Deduction

Small Business Capital Gains

Temporary Reduction of S Corporation Built-In Gains Holding Period from 10 Years to 7 Years

Temporary Small Business Estimated Tax Payment Relief

5-Year Carryback of Net Operating Losses for Small Businesses

Under current law, net operating losses (“NOLs”) may be carried back to the two taxable years before the year that the loss arises (the “NOL carryback period”) and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the ARRA bill extends the maximum NOL carryback period from two years to five years for small businesses with gross receipts of \$15 million or less.

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Delayed Recognition of Certain Cancellation of Debt Income

Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income (“CODI”) is the excess of the old debt’s adjusted issue price over the repurchase price. Certain businesses will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011.

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Election to Accelerate Recognition of Historic AMT/R&D Credits

Last year, Congress temporarily allowed businesses to accelerate the recognition of a portion of their historic AMT or research and development (R&D) credits in lieu of bonus depreciation. The amount that taxpayers may accelerate is calculated based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation. This amount is capped at the lesser of six percent (6%) of historic AMT and R&D credits or \$30 million. The ARRA bill extends this temporary benefit through 2009.

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Extension of Bonus Depreciation

Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The ARRA bill extends this temporary benefit for capital expenditures incurred in 2009.

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Extension of Enhanced Small Business Expensing

In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. The ARRA bill extends these temporary increases for capital expenditures incurred in 2009.

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Incentives to Hire Unemployed Veterans and Disconnected Youth

Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first \$6,000 of wages paid to employees of one of nine targeted groups. The ARRA bill created two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during the five-year period prior to hiring and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

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Section 179 Deduction

A qualifying taxpayer can choose to treat the cost of certain property as an expense and deduct it in the year the property is placed in service instead of depreciating it over several years. This property is frequently referred to as section 179 property. Under ARRA, qualifying businesses can continue to expense up to \$250,000 of section 179 property for tax years beginning in 2009. Without ARRA, the 2009 expensing limit for section 179 property would have been \$133,000. The \$250,000 amount provided under the new law is reduced if the cost of all section 179 property placed in service by the taxpayer during the tax year exceeds \$800,000. The new law does not alter the section 179 limitation imposed on sport utility vehicles, which have an expense limit of \$25,000.

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Small Business Capital Gains

Under current law, Section 1202 provides a fifty percent (50%) exclusion for the gain from the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited to the greater of 10 times the taxpayer's basis in the stock, or \$10 million gain from stock in that small business corporation. This provision is limited to individual investments and not the investments of a corporation. The non-excluded portion of section 1202 gain is taxed at the lesser of ordinary income rates or 28 percent, instead of the lower capital gains rates for individuals. The provision allows a seventy-five percent (75%) exclusion for individuals on the gain from the sale of certain small business stock held for more than five years. This change is for stock issued after the date of enactment and before January 1, 2011.

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Temporary Reduction of S Corporation Built-In Gains Holding Period from 10 Years to 7 Years

Under current law, if a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The ARRA bill temporarily reduces this holding period from ten years to seven years for sales occurring in 2009 and 2010.

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Temporary Small Business Estimated Tax Payment Relief

The bill reduces the 2009 required estimated tax payments for certain small businesses. Normally, small businesses have to pay 110 percent of their previous year's taxes in estimated taxes. The Recovery Act permits small businesses to reduce their estimated payments to 90 percent of the previous year's taxes.

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Helpful Links:

Department of Treasury: <http://www.treas.gov/recovery/programs.shtml>

Internal Revenue Service: <http://www.irs.gov/newsroom/article/0,,id=204335,00.html>