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2010 Small Business Jobs Act

The recently enacted 2010 Small Business Jobs Act includes a wide-ranging assortment of tax breaks and incentives for small business, paid for with various revenue raisers. Here's a brief overview of the tax changes in the new law.

Tax breaks and incentives

Enhanced small business expensing (Section 179 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. Under the new law, for tax years beginning in 2010 and 2011, the \$250,000 limit is increased to \$500,000 and the investment ceiling to \$2,000,000.

The new law also makes certain real property eligible for expensing. For property placed in service in any tax year beginning in 2010 or 2011, the up-to-\$500,000 of property expensed can include up to \$250,000 of qualified real property (qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property).

Extension of 50% bonus first-year depreciation. Businesses are allowed to deduct the cost of capital expenditures over time according to depreciation schedules. In previous legislation, Congress allowed businesses to write-off 50% of the cost. The new law extends the first-year 50% write-off to apply to qualifying property placed in service in 2010 (2011 for certain property).

Boosted deduction for start-up expenditures. The new law allows taxpayers to deduct up to \$10,000 in trade or business start-up expenditures for 2010.

Deductibility of health insurance for the purpose of calculating self-employment tax. The new law allows business owners to deduct the cost of health insurance incurred in 2010 for themselves and their family members before calculating their 2010 self-employment tax.

Offsets (revenue raisers)

Information reporting required for rental property expense payments. For payments made after Dec. 31, 2010, the new law requires persons receiving rental income from real property to file information returns with IRS and service providers reporting payments of \$600 or more during the tax year for rental property expenses.

Allow participants in governmental 457 plans to treat elective deferrals as Roth contributions. For tax years beginning after Dec. 31, 2010, the new law will allow retirement savings plans sponsored by state and local governments to include designated Roth accounts. Contributions to Roth accounts are made on an after-tax basis.

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Allow rollovers from elective deferral plans to designated Roth accounts. The new law allows 401(k), 403(b), and governmental 457(b) plans to permit participants to roll their pre-tax account balances into a designated Roth account. The amount of the rollover will be includible in taxable income except to the extent it is the return of after-tax contributions.

Miscellaneous Provisions

Tax breaks for hiring new employees. Employers are exempted from paying the employer 6.2% share of Social Security (i.e., OASDI) employment taxes on wages paid in 2010 to newly hired qualified individuals. These are workers who: (1) begin employment with the employer after Feb. 3, 2010 and before Jan. 1, 2011, (2) certify by signed affidavit, under penalties of perjury, that they haven't been employed for more than 40 hours during the 60-day period ending on the date the individual begins employment with the qualified employer; (3) do not replace other employees of the employer (unless those employees left voluntarily or for cause), and (4) aren't related to the employer under special definitions. The payroll tax relief applies only for wages paid from Mar. 19, 2010 through Dec. 31, 2010.

Employers also may qualify for an up-to-\$1,000 tax credit for retaining qualified individuals. The workers must be employed by the employer for a period of not less than 52 consecutive weeks, and their wages for such employment during the last 26 weeks of the period must equal at least 80% of the wages for the first 26 weeks of the period.

Regulations on election to defer COD income. For debt discharges in tax years ending after Dec. 31, 2008, a taxpayer may elect to have any cancellation of debt (COD) income from the reacquisition of an applicable debt instrument after Dec. 31, 2008, and before Jan. 1, 2011, included in gross income ratably over five tax years.

Over-the-counter drug costs will no longer be reimbursable. Effective Jan. 1, 2011, unless prescribed or insulin, the cost of over-the-counter medicines cannot be reimbursed from flexible spending arrangements (FSA), health reimbursement arrangements (HRA), Health Savings Accounts (HSA) and Archer Medical Savings Accounts (Archer MSA). The IRS has issued guidance explaining that an individual may be reimbursed for over-the-counter medicines or drugs, so long as the individual obtains a prescription for the medicines or drugs. It also makes clear that expenses incurred for over-the-counter medicines or drugs purchased without a prescription before Jan. 1, 2011 may be reimbursed tax-free at any time by an employer-provided plan, including an FSA or HRA, under the terms of the employer's plan.

Simplified per diem rates lowered effective Oct. 1, 2010. Reimbursements of an employee's business travel costs (lodging, meal and incidental expenses (M&IE)) at a per diem rate are payroll-and income-tax free if simplified substantiation is provided and the daily rate doesn't exceed the federal per diem rate (the maximum amount that the federal government reimburses its employees) for the locality of travel for that day.

Please keep in mind that we have described only the highlights of the most important changes in the new law. If you would like more details about any aspect of the new legislation, please contact us to set up a meeting or to discuss over the phone.

Sincerely,

Leverone & Associates