

October 18, 2010

2010 Small Business Jobs Act



The 2010 Small Business Jobs Act that was signed into law on September 27, 2010 had a variety of tax breaks and incentives for small businesses. These items were paid for with an assortment of revenue raisers. We have summarized below the most applicable of the tax changes in the new law.

There are new incentives for purchasing fixed assets and some relief from paperwork:

Increased Section 179 Expensing Election: For years beginning in 2010 and 2011, taxpayers can expense up to \$500,000 of qualifying property placed in service during those years. The \$500,000 is reduced (but not below zero) by the amount by which the qualifying purchases exceeds \$2,000,000. This is the investment ceiling. This is an increase from the previous limits of \$250,000 and \$800,000. Qualifying property is generally machinery, equipment and certain software. For 2010 and 2011, there was an expanded change to the definition of eligible property.

Certain Real Property Eligible for Expensing: Up to \$250,000 of the \$500,000 limitation can be qualified real property (qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property).

Another Year of Bonus Depreciation: The bonus 50% first-year write-off of the cost on qualifying property was extended to property placed in service in 2010. As in the past several years, this allows a business to more rapidly deduct capital expenditures of most new tangible personal property and certain other new property. It should be noted, as in the past, it must be new property, not used. In addition, many states have not adopted this part of the federal tax law and therefore, there could be differences between federal income and state income.

Additional Depreciation for Autos: Because of the reinstatement of the bonus depreciation, depreciation for a new passenger auto or light truck used in business has increased by \$8,000 for 2010 only. A new passenger car's maximum depreciation is now \$11,060, and for a light truck or van, it is now \$11,160.

Cell Phones Are No Longer Considered Listed Property: This means that cell phones can be deducted or depreciated like other business property without IRS mandated onerous recordkeeping requirements.

Two pieces of good news for those with general business credits:

Carryback of General Business Credits for 2010 Expanded: Under the new law and beginning in 2010, eligible small businesses can carry back unused general business credits for five years instead of the rule of one year carryback and then forward. Eligible small businesses consist of sole proprietorships, partnerships and non-publicly traded corporations with \$50 million or less in average annual gross receipts for the prior three years.

General Business Credits Are Not Subject to AMT: Eligible small businesses, as defined above, can use all types of general business credits to offset their AMT in tax years beginning in 2010.

Contractors: For contractors with long-term contracts and using percentage of completion method of accounting, the new law provides that in determining the percentage of completion, bonus depreciation is not taken into account as a cost. This prevents the bonus depreciation from having the effect of accelerating income.

Self-Employed Taxpayers: Business owners, doing business as sole proprietor, can now deduct the cost of health insurance incurred in 2010 for themselves and their family members in calculating their 2010 self-employment tax.

New Businesses: Taxpayers can now deduct up to \$10,000 in trade or business start-up expenditures for 2010. The amount that a business can deduct is reduced by the amount by which start-up expenditures exceed \$60,000. The previous limitation for this deduction was capped at \$5,000, subject to a \$50,000 phase-out threshold.

But, there are revenue raisers, as in all tax bills to offset the incentives:

Issue of 1099's have new rules and penalties:

**Rental Property Expense Payments will be Reported on 1099:* Owning real estate will be considered a trade or business for 1099 reporting purposes after 2010. What this means is real estate owners will now be required to issue 1099's to all service providers for those paid \$600 or more for payments made after December 31, 2010, just like other business owners. Exceptions are provided for individuals renting their principal residences on a temporary basis, taxpayers whose rental income doesn't exceed an IRS-determined minimal amount, and those for whom the reporting requirement would create a hardship (under IRS regulations).

Increased 1099 Return Penalties: For 1099's required to be filed after December 31, 2010, there are harsher penalties for failing to file the required forms and sending copies to the payees. In most cases, the penalties are doubled, so it could be \$200 per occurrence.

These are only the highlights of the new act we felt were most applicable for our clients. There are more incentives and penalties, so if you would like further details about any aspect of the new legislation, please do not hesitate to call.

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For questions, please contact a Kerkering Barberio professional tax advisor at 941-365-4617.

*As of April 14, 2011, the requirement that Rental Property Expense Payments be reported on 1099's was repealed.