

January 10, 2011

# 2010 Tax Relief Act - Businesses



## TAX RELIEF ACT PROVIDES BUSINESSES WITH ENHANCED INVESTMENT INCENTIVES AND MORE

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, passed by the Senate December 15 and the House December 16, may be best known for extending lower income and capital gains tax rates for individuals. But the Act also extends and enhances many breaks for businesses. In particular, it provides incentives for businesses to invest in assets, research and people.

### **Bonus depreciation**

One way in which the 2010 Tax Relief Act encourages businesses to invest is by significantly enhancing bonus depreciation for qualified assets. The Small Business Jobs Act (SBJA), signed into law in September, had previously extended 50% bonus depreciation to 2010. The Act temporarily increases this additional first-year depreciation allowance to 100% for new purchases placed in service between September 9, 2010 and December 31, 2011 and then provides a 50% allowance for 2012.

Qualified assets include *new* tangible property with a recovery period of 20 years or less (such as office furniture and equipment), off-the-shelf computer software, water utility property and qualified leasehold-improvement property. The Tax Relief Act also extends the provision allowing corporations to accelerate certain credits in lieu of claiming bonus depreciation for qualified assets placed in service through December 31, 2012.

### **Section 179 expensing**

Section 179 is another tax law provision that encourages investment by allowing businesses to immediately write off the full price of qualifying asset purchases rather than depreciating them over several years. The deduction is reduced by \$1 for every \$1 of expenses in excess of a phase-out threshold. The expensing election can be claimed only to offset net income, not to reduce net income below zero.

Under the SBJA, the Section 179 expensing limit for assets placed in service in 2010 and 2011 is \$500,000 with a phase-out threshold of \$2 million. Before the 2010 Act, the expensing limit was scheduled to drop to pre-2003 levels. The Act did not extend the 2011 levels but did set the 2012 limits to \$125,000 and \$500,000, respectively, and both amounts will be indexed for inflation.

Section 179 may be less important while 100% bonus depreciation is available. Depending on the type of asset, 100% bonus depreciation may provide the same tax savings — with no limit on asset purchases. But you'll also want to consider any applicable state tax consequences.

### **Leasehold-improvement, restaurant and retail-improvement property**

For 2009, a 15 year recovery period was available for qualified leasehold-improvement, restaurant and retail-improvement property. The 2010 Tax Relief Act extends it to 2010 and 2011.

### **Research credit**

For many years, the research credit (also commonly referred to as the "research and development" or "research and experimentation" credit) has provided an incentive for businesses to invest in research. But the credit expired at the end of 2009. The 2010 Tax Relief Act extends the credit to 2010 and 2011.

## **Work opportunity credit**

The Work Opportunity Credit, designed to encourage hiring from certain disadvantaged groups, was scheduled to expire after Aug. 31, 2011. The 2010 Tax Relief Act extends the credit to qualifying hires made through December 31, 2011.

## **Payroll tax**

For 2011 only, the 2010 Tax Relief Act reduces the employee portion of the Social Security tax on earned income from 6.2% to 4.2%. The self-employed pay both the employee and employer portions of Social Security tax, and the Act also reduces their rate by two percentage points for 2011, from 12.4% to 10.4%.

The employer portion of Social Security tax remains the same. But employers will have to work closely with their payroll companies to ensure the proper adjustments are made to their employees' paychecks in the new year.

Also note that even though the Tax Relief Act doesn't extend the payroll tax forgiveness provided under the Hiring Incentives to Restore Employment (HIRE) Act of 2010, if you hired workers in 2010 that qualified for payroll tax forgiveness, you may be eligible for a retention credit of up to \$1,000 per retained worker on your 2011 tax return.

## **Many opportunities to save**

The 2010 Tax Relief Act also extends through 2011 many other tax breaks for businesses that had expired after 2009 as well as additional tax-saving opportunities that may help reduce your individual tax liability.

Please contact us with any questions you have about the 2010 Tax Relief Act's business incentives or other provisions. We can help you determine which ones will provide you opportunities to save taxes and achieve your goals.

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