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CERTIFIED PUBLIC ACCOUNTANTS

American Recovery & Reinvestment Tax Act 2009 Business Tax Incentives

The American Recovery and Reinvestment Tax Act (2009 Act) has a number of tax provisions designed to stimulate the economy and create jobs. These provisions expand existing business tax incentives and create several new ones. The following is a list of the provisions that might be of interest to you in your business.

General Provisions

- (1) **Election to Expense Certain Depreciable Business Assets:** The 2009 Act extends the current expensing amount of \$250,000 and the \$800,000 phase-out amount through 2009.
- (2) **Bonus Depreciation:** The 2009 Act extends 50% additional first-year depreciation through 2009 (2010 for certain longer-lived property and transportation property), effective for property placed in service in 2009. Also, the election to accelerate AMT credits and research credits instead of taking additional first-year depreciation is extended through 2009.
- (3) **Net Operating Losses:** Taxpayers with gross receipts not exceeding \$15,000,000 may elect a three, four, or five-year carryback of 2008 net operating losses, instead of the otherwise two-year period.
- (4) **Credit for Unemployed Veterans and Disconnected Youths Hired in 2009/2010.** The 2009 Act creates a new targeted group for purposes of the work opportunity tax credit. This new group includes certain unemployed veterans and disconnected youth who begin work for the employer in 2009 and 2010.
- (5) **Income from Discharge of Indebtedness:** Taxpayers may elect to treat 2009 and 2010 business income from a discharge of indebtedness occurring in connection with the repurchase of a debt instrument as includible in income ratably over an eight-year tax period. For a 2009 repurchase, the inclusion begins in the fifth tax year following the tax year in which the repurchase occurs. For a 2010 repurchase, the inclusion begins in the fourth tax year following the tax year in which the repurchase occurs.
- (6) **Partial Exclusion for Gain from Certain Small Business Stock:** Effective for stock acquired after February 17, and before 2011, the percentage exclusion is increased from 50% to 75%.
- (7) **Tax Imposed on Certain Built-in Gains:** Effective for tax years beginning in 2009 and 2010, the S corporation built-in gains holding period is reduced from 10 years to seven years.

Energy Incentives

- (1) **Alternative Motor Vehicle Credit:** Effective for property placed in service in 2009 through 2012, the 2009 Act adds a 10% credit up to \$4,000 for the cost of converting a motor vehicle to a plug-in electric drive vehicle. There is no recapture if the vehicle ceases to be eligible for the pre-existing alternative motor vehicle credit as a result of the conversion.
- (2) **Alternative Fuel Vehicle Refueling Property Credit:** The 2009 Act temporarily increases this credit for property placed in service in 2009 and 2010. For hydrogen refueling property, the credit percentage remains the same, but the maximum credit is increased to \$200,000. For non-hydrogen refueling property, the credit is increased from the existing 30% to 50%, with a \$50,000 maximum.
- (3) **Plug-in Electric Vehicle Credit (*new*):** Certain two- and three-wheeled electric vehicles and certain low-speed electric vehicles placed in service after February 17, 2009, and before 2011, are eligible for a credit equal to 10% of their cost, up to a maximum of \$2,500 per vehicle.
- (4) **Energy Credit:** There are several changes to the energy credit. The \$4,000 cap for small wind energy property is eliminated along with the basis reduction for subsidized energy financing, effective for periods beginning after 2008. In addition, for property placed in service in 2009 and 2010, the taxpayer may apply for a grant from The Treasury Department instead of taking the credit. Grant recipients must reduce the basis of the property by 50%, but the grants are not includible in income.
- (5) **Qualified Advanced Energy Property Credit (*new*):** The 2009 Act allows for up to \$2.3 billion for a new 30% credit for the cost of investments in qualified advanced energy projects, effective for periods after February 17, 2009. Qualified energy projects are projects that equip, expand, or establish manufacturing facilities that produce certain renewable and alternative energy property. This credit will be administered by the Treasury Department in consultation with the Energy Department.

Please contact us prior to any new investments /purchases so that we can discuss your specific circumstances and plan accordingly.