



Quarterly Review

Fall 2010

Small Business Jobs Act of 2010

by Mark T. Hartshorn, MST

According to Senate Finance Committee Chairman Max Baucus, D-Montana, the Small Business Jobs Act (The Act) of 2010 establishes “the right conditions for small businesses to create jobs by spurring investment and entrepreneurship.” The Act was signed into law by President Obama on September 27, 2010.

Immediate Capital Expensing. Small businesses can immediately expense up to \$500,000 of qualifying property, generally tangible personal property, with phase out occurring with investments of qualifying property between \$2 million and \$2.5 million. The new law also extends the definition of qualifying property to include real property such as qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property. The expensing limit on qualifying real property is limited to \$250,000. These provisions are effective for tax years beginning in 2010 and 2011.

Bonus Depreciation. The Act extends the 50% bonus depreciation on purchases of new assets of tangible personal property for assets purchased during the 2010 calendar year.

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We publish the [Quarterly Review](#) to keep our clients and friends informed and up to date on accounting, tax, and business developments.

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2010 Individual Tax Planning for Expired and Expiring Tax Breaks

by Brian M. Seiberling, CPA

2010 has indeed been a year of changes – especially for the Internal Revenue Code. Congress has added several new legislative amendments to the Internal Revenue Code with the passing of the Hiring Incentives to Restore Employment (HIRE) Act and Health Care and Education Reconciliation Act. These amendments are in addition to the tax breaks enacted by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), and subsequent legislation scheduled to expire for tax years beginning after December 31, 2010. To date, Congress has not extended many tax breaks that expired at the end of 2009, which include certain 2009 tax breaks for individuals that may not be available in 2010. The list below only highlights some of the most commonly used tax breaks that may not be available in 2010.

- ❖ Additional standard deduction for qualified state and local real property taxes up to \$500 (\$1,000 for joint filers).
- ❖ Election to itemize state and local sales taxes instead of state and local income taxes.
- ❖ Above-the-line deduction for qualified higher education tuition and related expenses of up to \$4,000.



- ❖ Above-the-line deduction for qualified out-of-pocket classroom expenses for teachers and other education professionals up to \$250.
- ❖ Exclusion from gross income of up to \$2,400 of unemployment benefits.
- ❖ Alternative Minimum Tax (AMT) patch with increased exemption amounts.
- ❖ Tax-free charitable distributions up to \$100,000 from Individual Retirement Accounts (IRAs) for individuals age 70½ and older.

EGTRRA, JGTRRA, TIPRA, and subsequent legislation made major changes to the Internal Revenue Code that are scheduled to expire after December 31, 2010. If these legislations are not extended, the individual tax breaks listed below will expire for tax years beginning after December 31, 2010. The list below highlights some of the most commonly used tax breaks that may not be available for tax years beginning after December 31, 2010.

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"Tax Planning" ...*(Continued from Page 1)*

- ❖ Lower income tax rates for individuals of 10%, 15%, 25%, 28%, 33%, and 35% for 2010 will revert back to pre-EGTRAA rates of 15%, 28%, 31%, 36%, and 39.6% for tax years beginning after December 31, 2010.
- ❖ Limitation on itemized deductions for higher-income taxpayers is entirely repealed for 2010. This limitation will be back for tax years beginning after December 31, 2010.
- ❖ The standard deduction for married individuals filing a joint return is \$11,400 in 2010. For tax years after December, 2010, this deduction is expected to be less. More simply put, the marriage

penalty will be back for tax years beginning after December 31, 2010.

- ❖ Child tax credit is \$1,000 per qualifying child for 2010 and will revert back to \$500 for tax years beginning after December 31, 2010 (changes to the refundable component will also expire).
- ❖ Maximum adjusted net capital gains rate of 15% for individuals for both regular tax and AMT (except individuals in the 10% and 15% tax brackets which is 0%) for 2010. The adjusted capital gain rate of individuals will revert back to 20% (or 18% for gains on assets held over five years) and the 0% rate will be replaced with a 10% rate (or 8% for gains on assets held over five years) for tax years beginning after December 31, 2010.
- ❖ Maximum tax rate for qualified dividends received by an individual is 15% (except individuals in the 10% and 15% tax brackets which is 0%) for 2010 and will revert back to being taxed at ordinary income tax rates which could be as high as 39.6% for tax years beginning after December 31, 2010.
- ❖ Homeowners can claim the Nonbusiness Energy Property Credit for 30% of the cost of qualified energy saving improvements made to a primary residence up to a maximum credit of \$1,500 in 2010. The maximum credit is reduced dollar for dollar by any credit claimed in 2009. After December 31, 2010, the 30% tax credit will expire and there will only be a limited number of other energy credit purchases that individuals could utilize (i.e. solar panels and geothermal heat pumps).
- ❖ Maximum American Opportunity Tax Credit (AOTC) of \$2,500 per student can be claimed for four post-secondary education years instead of two and adds required course material to the list of qualifying expenses for 2010. The AOTC modifies the existing Hope Credit for 2010. After December 31, 2010, the AOTC will be gone and the HOPE Credit will only allow for qualified expenses for the first two years of post-secondary education.

- ❖ Maximum Making Work Pay Credit of \$800 for a qualified married couple filing a joint return and \$400 for individuals for 2010 and will expire for tax years beginning after December 31, 2010.

Congress has little time to address many of the major changes enacted by the EGTRRA, JGTRRA, TIPRA, and subsequent legislation. Without an AMT patch, for example, more middle class taxpayers will be subject to Alternative Minimum Tax in 2010. Individuals concerned about being subject to higher tax brackets and rates after 2010 should review the timing of income and deductions. Individuals may accelerate income into 2010 to lower their overall tax liability or defer deductions into 2011 to help offset income that may be subject to a higher tax rate. However, by the time Congress decides to take action, it may leave little time for proper tax planning. If you feel any of the above tax issues may have a significant impact on your personal taxes, please contact us. ♦



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Certified Public Accountants & Consultants

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INSIDE Public Accounting

2010 TOP 200 FIRMS

Smith Elliott Kearns & Company, LLC was recently named to *Inside Public Accounting's* 2010 List of Top 200 Firms in the United States.

SEK&Co recognizes this designation only comes to us because of the excellent relationship we have with our clients and the dedication of our staff.

We would like to express our appreciation to each of you! ♦

BEST PLACES to work in PA 2010

We are pleased to share the exciting news that Smith Elliott Kearns & Company, LLC has been named one of the 100 Best Places to Work in PA for 2010.

This survey and awards program was designed to identify, recognize and honor the 100 best places to be employed in Pennsylvania, benefiting the state's economy, its workforce and businesses. The 100 Best Places to Work in PA award is recognized as a benchmarking tool for PA businesses, and creates a standard of achievement that makes SEK&Co more marketable to clients, prospective clients, and potential employees.

"We are honored to be named one of the best places to work in Pennsylvania. Even through these tough economic times, our emphasis on training and mentoring, growth opportunities, and work-life balance, has enabled us to recruit and retain highly qualified staff. What makes SEK&Co different is the continuing dedication of our members and staff toward developing an internal culture we can all be proud of," said John Schnitzer, Managing Member of the Firm.

Companies from across the state entered the two-part process to determine the 100 Best Places to Work in PA. The first part of this process was evaluating each nominated company's workplace policies, practices, philosophies, systems and demographics. This part of the process was worth approximately 25% of the total evaluation. The second part consisted of an employee survey to measure the employee experience. This part of the process was worth approximately 75% of the total evaluation. The combined scores determined the top companies and the final ranking. Best Companies Group managed the overall registration and survey process.

As a proud recipient of this award, we recognize our staff served an important part in making this possible, their commitment to the firm allows us to maintain a work environment that joins work-life balance with staff and firm growth. ♦

"Jobs Act" ...

(Continued from Page 1)

Start-Up Expenses. Start-up bonus depreciation on purchases of new assets of tangible personal property for assets purchased during the 2010 calendar year.

Health Insurance. Self-employed individuals can deduct the cost of health insurance for themselves and their families for purposes of calculating net earnings from self-employment for 2010.

General Business Credits. Small businesses can elect to "carry back" their general business credits to offset five years of taxes while also allowing these credits to offset AMT. Effective for credits determined in the taxpayer's first tax year beginning after 12/31/09.

Penalties. The Act changes the rules for penalties that disproportionately affect small businesses for failing to report certain tax transactions. The Act changes the old rule of a fixed dollar amount to a percentage of the tax benefits from the transaction. The effective date of this change is for penalties assessed after 12/31/06.

Employee Cell Phones. Businesses can stop worrying about the documentation requirements (i.e. phone logs) for cell phones. The Act allows for phones to be deducted as an ordinary and necessary business expense, effective for tax years beginning after 12/31/09.

Small Business Stock. 100% of gain on qualified small business stock acquired after 9/27/2010 and before 1/1/2011 that is held for 5 years or longer is excludable from income. In addition, the gain is not considered a preference item for AMT.

Capital Gains Tax. The tax rate for capital gains on capital investments held longer than 5 years is 0%.

S Corp Built-In Gain Period. The holding period for appreciated assets originally held in a C Corp subject to the built-in gains tax has been shortened to five years. This provision is only effective for any dispositions in any tax year beginning in 2011.

SBA Recovery Loans. The Act allows for more funding and capacity of new

Recovery Loans that are currently in the Recovery Loan Queue.

- ❖ The Act increases guarantees for the SBA's largest loan program, the 7(a) program, to 90% and reduces fees for the 7(a) and 504 programs.
- ❖ The Act increases the maximum loan size for SBA loan programs.
 - ♦ The 7(a) and 504 program maximums will permanently rise from \$2 million to \$5 million and the 504 manufacturing-related loans increase from \$4 million to \$5.5 million.
 - ♦ SBA microloan maximums are permanently increased from \$35,000 to \$50,000.
 - ♦ SBA Express loan maximums are temporarily increased from \$350,000 to \$1 million.
- ❖ Additionally, the Treasury Department is working to implement two new programs designed to support the private sector. Further details of these programs will be released by the Department in the coming weeks.

Retirement Planning

- ❖ Employees can transfer their 401(k) and other similar retirement plans into Roth accounts. Income taxes are due on the transfer, but can be split between the 2011 and 2012 tax years, if so elected.
- ❖ There is new flexibility for savers who hold annuities outside of retirement plans. Under The Act, these individuals may draw income off part of an annuity while allowing the rest of it to continue growing.

Rental Income. The law adds a requirement for landlords. For payments after 12/31/10, most recipients of rental income (landlords) must prepare IRS Form 1099 Information Returns if they pay a service provider \$600 or more during any calendar year.

The Act has been viewed by many as another stimulus package, while others are referring to The Act as tax policy. Whichever terms you use, the federal government wants to provide tax incentives to help small businesses expand. ♦



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The Better Way

The final quarter of the year is here and Hi Bracket did his traditional thing – plan his taxes for the year. Being an old hand at this now, he arranged to defer receipt of some income such as rental and installment sales payments. Correspondingly, he tried to get all the deductions he could and paid all his year-end contributions, real estate taxes and, oh yes, recognized capital losses to offset capital gains. This all being under control, he rested easy for the fall and the holiday season.

The better way, this year, “might” be just the opposite. Whether Congress takes action or not, it looks like tax rates will be going up next year, especially for high income people. And the low tax rates on capital gains will most certainly rise in the future. Maybe

this year it would be better to accelerate income and defer deductions to take advantage of the lower rates now. In fact, a sale that would normally have been an installment sale could be elected to be taxable now and maybe even restructuring existing installment sales might let the income be taxed at lower rates. Tax payments and contributions could be made a few days later and deducted in a higher bracket next year.

Of course the time value of money and other factors must be considered. While all this seems contrary to normal wisdom, these aren’t normal times. We will be glad to help you with your planning – traditional or otherwise. ♦



IRS to Eliminate Paper Coupon Deposits

The Internal Revenue Service (IRS) has issued proposed regulations to significantly increase the number of electronic transactions between taxpayers and the federal government.

The proposed regulations (REG 153340-09) would eliminate the rules for making federal tax deposits by paper coupon because the paper coupon system will no longer be maintained by the Treasury Department after Dec. 31, 2010. The proposed regulations generally maintain existing rules for depositing federal taxes through the Electronic Federal Tax Payment System (EFTPS).

The proposed regulations do not alter existing *de minimus* rules for employers with a deposit liability of less than \$2,500 for a return period



who are allowed to pay their employment taxes with their quarterly or annual tax return. Using EFTPS to make federal tax deposits enables depositors to make tax payments 24 hours a day, seven days a week from any location. The EFTPS system allows taxpayers to schedule payment dates up to 120 days advance of the desired payment date.

Information on EFTPS, including how to enroll, can be found at www.eftps.gov or by calling EFTPS Customer Service at 1-800-555-4477. ♦