

**September 29, 2010**

**ALERT: New jobs bill provides extended or new tax breaks for businesses**

Businesses received some welcome tax relief this week through newly enacted legislation which increases limits for capital equipment expensing, allows qualified real property to be expensed and extends bonus depreciation, among other measures. The somewhat misleadingly named Small Business Jobs Act, signed into law by President Obama on September 27, 2010, will benefit a wide range of businesses with new tax provisions. Some of the changes signed into law are outlined following:

- **Higher dollar limit for expensing capital equipment**

Prior to the new bill, eligible capital equipment purchases up to \$250,000 could be claimed as deductions in the year the equipment was placed into service, instead of being depreciated over a longer period. (This is sometimes referred to as Section 179 expensing.) If total equipment purchased is more than \$800,000, every dollar spent above the \$800,000 ceiling reduced the total expensable amount dollar-for-dollar from the maximum \$250,000. The new bill raises the maximum expensing amount to \$500,000 and the purchase limit to \$2,000,000 for tax years beginning in 2010 and 2011.

- **Qualified real property now eligible for expensing**

For the first time, qualified real property may now be expensed like capital equipment purchased under Section 179. For tax years beginning in 2010 or 2011, qualified real property may be expensed in the year it is put into service up to a maximum of \$250,000, rather than depreciated. Types of property eligible are limited to qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property.

- **Bonus depreciation extended through 2010**

Certain types of personal property and qualified real property which are typically depreciated over a period of years were eligible through Dec. 31, 2009 to take first-year depreciation of 50%, "bonus" depreciation. The new law extended this bonus depreciation period for another year, for qualifying property acquired and placed into service during 2010.

Attention construction clients: Bonus depreciation would not be tied to allocation of contract costs for 2010 under the percentage of completion accounting method rules for assets with a depreciable life of seven years or less. This prevents the bonus depreciation from having the effect of accelerating income.

- **Business-vehicle first-year writeoff more than doubled**

Depreciation deductions for business vehicles placed into service in 2010 are raised from the previous limit of \$3,060 for cars and \$3,160 for light trucks/vans to \$11,060 for cars and \$11,160 for light trucks/vans.

- **S corporation built-in gains tax recognition period halved**

C corporations which have elected to become S corporations are taxed at 35% of gains built-in at the time of the election if the gains are recognized during the recognition period. Prior to the new law, the recognition period is the first 10 years as an S corporation; the new law shortens the holding period of assets subject to the built-in gains tax to five years if the fifth tax year in the recognition period starts before the tax year beginning in 2011.

- General business credits of eligible small businesses for 2010 allowed to be carried back five years**  
 Generally, a business's unused general business credits can be carried back to offset taxes paid in the previous year, and the remaining amount can be carried forward for 20 years to offset future tax liabilities. Under the new law, for the first tax year of the taxpayer beginning in 2010, eligible small businesses can carry back unused general business credits for five years. 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 of eligible small businesses in 2010 aren't subject to AMT**  
 Under the alternative minimum tax (AMT), taxpayers can generally only claim allowable general business credits against their regular tax liability, and only to the extent that their regular tax liability exceeds their AMT liability. A few credits, such as the credit for small business employee health insurance expenses, can be used to offset AMT liability. The new law allows eligible small businesses, as defined above, to use all types of general business credits to offset their AMT in tax years beginning in 2010.
- Cell phones no longer listed property**  
 Businesses are required to document the nature of use of certain types of property, called "listed" property. Cell phones no longer require this documentation for tax years beginning after Dec. 31, 2009.

To balance the loss of tax revenue from these legislative changes, some additional penalties and reporting requirements have been put into place. One that may affect a number of individuals or businesses is that **persons receiving rental income from real property will be considered to be engaged in a "trade or business" for the purposes of 1099 reporting after Dec. 31, 2010. Rental income recipients making payments of \$600 or more during the tax year to a service provider (for example, plumbers, painters, lawn maintenance) in the course of earning rental income are required to provide an information return (typically Form 1099-MISC) to the IRS and to the service provider.** This provision is effective for payments made after December 31, 2010.

The bill contains a number of additional tax law changes; for more information about these and the provisions outlined above, please contact your AGH professional or AGH vice president of tax services Shawn Sullivan at (316) 291-4110 or [shawn.sullivan@aghlc.com](mailto:shawn.sullivan@aghlc.com).

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