

Small Business Jobs Act Offers Tax Incentives

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In addition to expanding lending to small businesses, the Small Business Jobs Act ("SBJA"), effective September 27, 2010, also includes several tax provisions which aim to encourage investment, promote entrepreneurship and provide small business relief. The following is a brief summary of some of the most significant tax provisions included in the SBJA:

- *Increased and Expanded Section 179 Expensing.* Under SBJA, qualifying businesses can now expense up to \$500,000 of section 179 property for tax years beginning in 2010 and 2011. Without SBJA, the expensing limit for section 179 property would have been \$250,000 for 2010 and \$25,000 for 2011. The SBJA also increases the section 179 investment ceiling to \$2,000,000 (up from \$800,000 in 2010). This means that a taxpayer can spend up to \$2,000,000 on Section 179 property for years starting in 2010 and 2011 before triggering a reduction to the \$500,000 expense limitation. Additionally, SBJA expands the definition of Section 179 property to include certain real property, including: certain leasehold improvements, restaurant property and retail improvement property and allows businesses to claim \$250,000 of Section 179 expense on it.
- *Bonus Depreciation Extended.* The SBJA also extends the 50% first-year special depreciation allowance provision (i.e., "bonus depreciation") that had expired at the end of 2009 through December 31, 2010. Bonus depreciation on property with a recovery period of 10 or more years (e.g., certain long-lived assets and transportation property) is extended through 2011. The 50% first-year special depreciation allowance provides an additional means by which businesses can accelerate a deduction by expensing (a portion of) the cost of property that would otherwise be spread out over a number of years.
- *Increased Deduction for Start-Up Expenditures.* In addition, the SBJA doubles the amount of start-up expenditures that may be deducted in the year incurred from \$5,000 under current law, to \$10,000 for tax years beginning in 2010. Additionally, the investment ceiling is increased from \$50,000 to \$60,000.
- *Five-year carryback for general business credits.* Prior to the enactment of SBJA, a business's unused general business credits could be carried back to offset taxes paid in the previous year only, and the remaining amount could be carried forward for 20 years to offset future tax liabilities. Under SBJA, for the first tax year of the taxpayer beginning in 2010, eligible small businesses can carry back unused general business credits for five years instead of just one. Eligible small businesses are sole proprietorships, partnerships and non-publicly traded corporations with \$50 million or less in average annual gross receipts for the prior three years.
- *Use of general business credits to offset AMT for 2010.* 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. The SBJA allows eligible small businesses to use all types of general business credits to offset their AMT in tax years beginning in 2010.