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Tax Relief Act Has Small Bus Investment Incentive

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The 2010 Tax Relief Act now awaiting signature by the president has an important investment incentive for small business. IRC §1202 has been amended to provide that an investor who invests in a “C” corporation (that is a traditional corporation established under state law) can exclude 100% of its capital gains if the investment is held for at least 5 years and the investment is in a “qualified small business”. The term “qualified small business” means a business which is not a “personal service business” (example: medical practice, talent loan out company, accounting firm).

This change amends IRC § 1202(a)(4) which currently provides for a 50% exclusion. So, the net effect is to encourage risk taking by way of increasing potential net after tax rates of return. One question would be interesting to consider, is why this provision of the Tax Relief Act has not received more attention as a jobs stimulus.

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