President Signs Tax Relief, Unemployment Insurance Reauthorization and Jobs Creation Act of 2010

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On December 17, 2010, President Obama signed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2011 (the "Act") as approved by the Senate on December 15, 2010 and the House of Representatives on December 16, 2010. The following is a brief description of the provisions included in the Act.

Individual Tax Rate Provisions

Income tax rates. The Act extends the 10% individual income tax bracket as well as the 25%, 28%, 33%, and 35% individual income tax brackets for an additional two years, through 2012.

Capital gains rates. The Act allows the capital gains rates to remain at 0% for taxpayers below the 25% bracket and 15% for taxpayers in the 25% rate and above, through 2012. Without the legislation, the capital gains rates were scheduled to expire at the end of 2010, and revert to 10% and 20%, respectively.

Dividends taxed at capital gains rates. The current dividend rates of 0% for taxpayers below the 25% bracket and 15% for taxpayers in the 25% bracket and above are extended through 2012. Without the legislation, these rates were set to expire at the end of 2010, taxing dividends at the ordinary income rates.

Phaseout of marriage penalty in the 15% bracket. The 15% regular income tax bracket for married couples filing joint returns set at twice the corresponding bracket for an unmarried individual filing a single return (marriage penalty relief for the 15% bracket) is extended through 2012.

Employee payroll tax cut. For 2011 only, the Act reduces the Social Security (OASDI) tax rate on employees to 4.2% (from 6.2%) and reduces the self-employment tax (SECA) rate to 10.4% (from 12.4%). However, the Act does not reduce the OASDI contribution base, which is $106,800 for 2011. Thus, the maximum OASDI tax in 2011 for employees is $4,485.60. In addition, the rate reduction is not taken into account in determining the SECA tax deduction allowed for determining net earnings from self-employment. As a result, the deduction for 2011 remains 7.65% of self-employment income (determined without regard to the deduction).

Alternative Minimum Tax Relief

Alternative minimum tax exemption amount and credit relief. The Act puts in place a 2-year patch for the AMT. The Act increases the AMT exemption amount to $72,450 for tax years beginning in 2010, and $74,450 for tax years beginning in 2011. For an individual who is not married and is not a surviving spouse, the exemption amount is $47,450 for tax years beginning in 2010, and $48,450 for tax years beginning in 2011. For married taxpayers filing separate returns, the exemption amount is 1/2 of the married filing jointly amount. In addition, both the personal credits and nonrefundable credits can offset AMT through 2011.

Individual Deductions and Credits

Elimination of marriage penalty in standard deduction. The Act extends, from 2010, the basic standard deduction for married couples filing joint returns that is twice the basic standard deduction for an unmarried individual filing a single return, through 2012.

Repeal of phaseout for personal exemptions. The phase out of the personal exemption (referred to as PEP) for higher income individuals had been gradually decreasing, so that by 2010, the phaseout was entirely repealed. The Act extends the repeal of PEP for an additional two years, through 2012. Thus, personal exemption amounts will continue to be allowed regardless of the taxpayer's income.

Phaseout of overall limitation on itemized deductions. Similar to the PEP, the phase-out of the overall limitation on deductions for higher income taxpayers had gradually decreased until its 2010 complete repeal. The Act extends this repeal for an additional two years, through 2012.

Modifications to child tax credit. Generally, taxpayers with income below certain threshold amounts may claim the child tax credit to reduce federal income tax for each qualifying child under the age of 17. Prior legislation increased the credit from $500 to $1,000 (per child), allowed the credit to offset AMT as well as regular tax, and converted it from nonrefundable to refundable for certain taxpayers. The Act preserves the child tax credit amount at $1,000 per child, extends the allowance against the regular tax as well as AMT, and maintains the refundability provision by allowing earnings above $3,000 to count towards the refundable portion of the credit (subject to the 2009 special rules discussed below) through 2012.

Expansion of adoption credit and adoption assistance programs. The Act extends for one additional year, through 2012, the $13,170 adoption credit amount and the income exclusion of the same amount for employer-assistance programs. Note, however, that although the current refundable credit will still exist through 2011, the 2012 credit is presently slated to become nonrefundable and return to the inflation-adjusted lower amount of $12,170. For 2013 and after, barring further legislation, the credit will revert back to its pre-2001 levels and only adoptions for special needs children will qualify for the credit or assistance exclusion.

Dependent care credit. This is a credit based on an applicable percentage of child and dependent care expenses for children under age 13 and disabled dependents. Eligible expenses of $3,000 for one eligible child/disabled dependent and $6,000 for two or more eligible children/disabled dependents, along with the increased applicable percentage of 35% are extended for an additional two years, through 2012.

Earned income credit. Legislation in 2009 increased the earned income credit to 45% of a working family's first $12,570 (inflation-adjusted $12,590 for 2010) of earned income for families with three or more children and also increased the beginning point of the phase-out for married couples filing a joint return. The Act extends, through 2012, the increases to the credit percentage and the married filing jointly phase-out threshold.

Refunds disregarded in the administration of Federal programs and federally assisted programs. The Act disregards all refundable tax credits, such as the refundable portion of the EITC and the child tax credit, as income for means tested programs. However, this provision does not apply to amounts received after December 31, 2012.

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Deduction for certain expenses of elementary and secondary school teachers. The Act extends, from 2009, the $250 above-the-line deduction for professional expenses incurred by elementary and secondary schoolteachers through 2011.

Deduction of state and local taxes. The Act extends, from 2009, the election available to taxpayers who itemize their deductions to deduct state and local sales taxes in lieu of state and local income taxes.

Contributions of capital gain real property made for conservation purposes. The Act extends, from 2009, the increased contribution limitations and carryover period for charitable contributions of certain conservation property for contributions made through December 31, 2011.

Tax-free distributions from individual retirement plans for charitable purposes. Through 2011, the Act allows taxpayers age 701/2 or older to make tax-free distributions to charities from their traditional individual retirement accounts (IRAs) and Roth IRAs up to $100,000 per taxpayer, per taxable year. Although this provision expired at the end of 2009, the Act permits individuals to make charitable transfers during January of 2011 as if they were made during 2010.

Employer-provided mass transit and parking benefits. The Act extends the increase (set at $230 in 2010) in the combined monthly exclusion for employer-provided transit and vanpool benefits through the end of 2011.

Deduction for mortgage insurance premiums. The Act extends for one year, through 2011, the itemized deduction for the cost of mortgage insurance on a qualified personal residence. The deduction is phased-out ratably by 10% for each $1,000 by which the taxpayer's adjusted gross income (AGI) exceeds $100,000, so that the deduction is unavailable for a taxpayer with an AGI in excess of $110,000.

Education Benefits

Above-the-line deduction for qualified tuition and related expenses. The Act extends, from 2009, the above-the-line deduction for qualified tuition and related expenses through 2011. The maximum deduction is $4,000 for taxpayers with adjusted gross incomes not exceeding $65,000 ($130,000 for joint returns) and $2,000 for taxpayers with adjusted gross incomes not exceeding $80,000 ($160,000 for joint returns).

Coverdell education savings accounts. These are tax-exempt savings accounts used to pay the higher education expenses of a designated beneficiary. The $2,000 annual contribution amount and expanded definition of education expenses to include elementary and secondary school expenses are extended by the Act for an additional two years, through 2012.

Exclusion for employer-provided educational assistance. An employee may exclude from gross income up to $5,250 for income and employment tax purposes per year of employer-provided education assistance. Earlier legislation expanded this provision to include graduate as well as undergraduate education through the end of 2010. The Act extends this expansion of the exclusion for an additional two years, through 2012.

Student loan interest deduction. Individuals who have paid interest on qualified education loans may claim an above-the-line deduction for the interest expenses up to $2,500. Before 2001, taxpayers were allowed this deduction only for 60 months and it was phased out for taxpayers with incomes between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). Legislation in 2001 eliminated the 60-month rule and increased the income phase-out to $55,000 to $70,000 ($110,000 and $140,000 for joint filers). The Act extends the 2001 changes to this provision for an additional two years, through 2012.

Exclusion of certain amounts received under the National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program. The National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program provide education awards to participants on the condition that the participants perform certain services. Legislation in 2001 created an exclusion from gross income for scholarships to apply to these programs. The Act extends the income exclusion for these programs for an additional two years, through 2012.

American Opportunity Tax Credit. The Act extends this temporary expansion of the Hope Credit through 2012. Generally, the credit is for up to $2,500 of the cost of tuition and related expenses paid during the taxable year. The credit is allowable for the first four year of post-secondary education and 40% of the credit is refundable. The credit is subject to a phase-out for taxpayers with adjusted gross income in excess of $80,000 ($160,000 for married couples filing jointly).

Stock/Bond Provisions

Empowerment Zone tax incentives. Qualified Zone Academy bonds (QZABs) are a form of tax credit bond designed to provide funds for state and local governments in cooperation with businesses to enhance the academic curriculum and increase public school graduation and employment rates within a qualified zone or enterprise community. QZABS offer the holder a federal tax credit instead of interest. The Act extends the QZAB program by providing an additional $400 million for 2011.

Exclusion of 100 percent of gain on certain small business stock. The Act extends the 100% exclusion of the gain from the sale of qualifying small business stock acquired before 2012, and held for more than five years. In addition, the alternative minimum tax preference item attributable for the sale remains eliminated. Qualifying small business stock is stock from a C corporation whose gross assets do not exceed $50 million (including the proceeds received from the issuance of the stock) and that meets a specific active business requirement. The amount of gain eligible for the exclusion is limited to the greater of 10 times the taxpayer’s basis in the stock or $10 million of gain from stock in that corporation.

Disaster/Economic Development Incentives

Empowerment Zone tax incentives. The Act extends for two years (through 2011) the designation of certain economically depressed census tracts as Empowerment Zones, within which individual residents are eligible for special tax incentives.

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Tax incentives for investment in the District of Columbia. The Act extends for two years (through 2011) the designation of certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone, within which individual residents are eligible for special tax incentives. The Act also extends for two years (through 2011) the $5,000 first-time homebuyer credit for the District of Columbia.

Increase in rehabilitation credit. The increased rehabilitation credit for qualified rehabilitation buildings and certified historic structures located in the Gulf Opportunity Zone expired after December 31, 2009. The Act extends the increased credit for two years, through December 31, 2011.

Low-income housing credit rules for buildings in GO zones. Additional allocations of low-income housing credits made in 2006, 2007, and 2008 for buildings located in the GO Zone, the Rita GO Zone, or the Wilma GO Zone require that the buildings be placed in service before January 1, 2011. The Act extends the placed-in service date for one year, through December 31, 2011.Capital Gains and Dividend Rates. The Act will continue the existing 15% rate for another two years, through 2012.

Estate and Gift Tax Provisions

Estate and Gift Taxes in 2011 and 2012.

For decedents dying in 2011 and 2012, the Act greatly reduces the reach of the estate tax by granting estates a $5.0 million exemption for property subject to the tax. In 2009, the last year in which there was an estate tax, the exemption was $3.5 million, so this is a significant increase. In addition, the Act introduces the concept of exemption “portability” between spouses — if one spouse does not use all of his or her $5.0 million exemption, it may be used by the estate of the surviving spouse, effectively creating a $10.0 million exemption for married couples. The estates that exceed this $5.0/$10.0 million threshold will be subject to a new 35% tax rate, considerably lower than the 45% rate that prevailed before 2010.

Gift taxes are also reduced. Since 2001, taxpayers have had only a $1.0 million lifetime exemption for gift tax purposes. That exemption is increased to $5.0 million for gifts made in 2011 and 2012, and the tax rate on 2011 and 2012 gifts in excess of that amount is 35%.

Estates of Decedents Dying in 2010.

The estates of those who died in 2010 faced considerable uncertainty prior to the passage of this legislation. A 2001 law repealed the estate tax for persons dying in 2010, but also imposed a carryover basis regime that required that heirs use the decedent’s tax basis for inherited property. Before 2010, that property had received a basis step-up at death. For some heirs, this 2010 requirement was a greater tax burden than would have been imposed by the estate tax. In addition, there was a risk that the estate tax would be retroactively reinstated for 2010, so many executors did not know what to do.

Congress has now eliminated that uncertainty for 2010 estates. It has repealed carryover basis and reinstated the estate tax for 2010, but with the $5.0 million exemption and 35% tax rate that are also available in 2011 and 2012. The new law also provides that estates of persons dying in 2010 can elect out of the estate tax, provided that they accept the modified carryover basis regime.

The estate tax return is normally due nine months after the date of death. In light of the special circumstances in 2010, the Act extends that filing date (as well as the payment date for the tax) for 2010 decedents to September 17, 2011.

Generation-Skipping Transfer Tax.

The Act makes a number of changes to the generation-skipping transfer (GST) tax, which, to simplify things a bit, is an additional tax imposed on gifts and bequests to grandchildren and great-grandchildren. The 2001 legislation repealed the GST tax for 2010 only, but there was a lack of clarity as to the effect of that repeal. The recent Act should eliminate that uncertainty, because it provides that the GST tax was in effect in 2010, but with a 0% tax rate. This means that any generation-skipping transfers that occurred in 2010 were tax-free, but that taxpayers could still take advantage of the various GST tax exemptions that could reduce or eliminate the tax in future years.

Going forward, the Act aligns the GST tax with the reformed estate and gift taxes. In 2011 and 2012, the GST exemption is increased to $5.0 million and the tax rate is 35%. In 2013, the GST tax, like the estate and gift taxes, will revert to a $1.0 million exemption and a 55% tax rate.

Business Incentives

Bonus Depreciation. The Act extends the 50% bonus depreciation provision for qualified property acquired after December 31, 2007, and before January 1, 2013. In addition, it allows 100% bonus depreciation for property acquired and placed in service after September 8, 2010, and before January 1, 2012. Thus, taxpayers can claim a 100% depreciation deduction for property acquired and placed in service in the latter third of 2010, all of 2011 (and 2012, for certain property). Property placed in service during 2012 (2013 for certain property) would be eligible for 50% bonus depreciation. The Act also extends the provision allowing corporate taxpayers to elect to accelerate the AMT and research credits in lieu of bonus depreciation to the 2011 and 2012 taxable years.

Other special rules apply to this new round of extension property, labeled “round 2 extension property.” If you plan on continuing or increasing your business asset investments, we should sit down to discuss all the procedures to qualify for the maximum depreciation deduction allowable.

Small Business Expensing. Under prior legislation, for taxable years beginning in 2010 and 2011, small businesses may elect to expense up to $500,000 of capital investment, with the phase out beginning at $2,000,000. The limits were scheduled to be lowered to $25,000 with a $200,000 limitation for 2012. Under the new law, for 2012, such amount is raised to $125,000, with a phase out threshold of $500,000 (both figures to be adjusted for inflation). A $25,000 maximum and $200,000 phase out threshold will apply for tax years beginning after 2012 and will not be adjusted for inflation.

In view of the 100% bonus depreciation property acquired and placed in service from September 9, 2010, through December 31, 2011, for any property that you acquired or may acquire in excess of the expensing limitations during that period, you should consider whether it would be advantageous to claim 100% bonus depreciation or to accelerate AMT or research credits, rather than electing to expense the cost.

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Social Security Tax Cut

For 2011 only, the 2010 TRA reduces the Social Security (OASDI) tax rate on employees to 4.2% (from 6.2%) and reduces the self-employment tax (SECA) rate to 10.4% (from 12.4%). The employer OASDI tax rate stays at 6.2%. Note that the 2010 TRA does not reduce the OASDI contribution base, which is $106,800 for 2011. Thus, the maximum OASDI tax in 2011 for employees is $4,485.60.

This rate reduction is not taken into account in determining the SECA tax deduction allowed for determining net earnings from self employment. As a result, the deduction for 2011 remains 7.65% of self-employment income (determined without regard to the deduction). For federal laws other than the tax Code, the rate of tax in effect under §3101(a) is determined without regard to the reduction in that rate under the 2010 TRA. Also, the income tax deduction allowed under for taxable years beginning in 2011 is determined using 59.6% of the OASDI tax paid, plus one half of the HI tax paid.

Energy Incentives

Incentive for Biodiesel and Renewable Diesel. The Act extends, from December 31, 2009, the credits for biodiesel, renewable diesel used as fuel, and biodiesel mixture, and the payments for non-taxable biodiesel mixture, for fuel sold or used through December 31, 2011. The Act also provides that biodiesel mixture credits properly determined during 2010 will be allowed, and any refunds or payments attributable to those credits will be made according to IRS guidance.

Credit for Refined Coal Facilities. The Act extends, from December 31, 2009, the renewable electricity production credit for facilities producing refined coal that are placed in service before January 1, 2012.

New Energy Efficient Home Credit. The Act extends, from December 31, 2009, the new energy efficient home credit for qualified homes acquired from an eligible contractor on or before December 31, 2011.

Excise Tax Credits and Outlay Payments for Alternative Fuel and Alternative Fuel Mixtures. The Act allows credits for alternative fuel and alternative fuel mixtures (excepting, in both cases, liquefied hydrogen) and payments for non-taxable alternative fuel and alternative fuel mixtures (excepting, in both cases, liquefied hydrogen) to such fuels sold or used on or before December 31, 2011. The Act also continues to exclude black liquor from credit eligibility. Finally, the Act provides that credits for alternative fuel or alternative fuel mixtures properly determined during 2010 will be allowed, and refunds or payments attributable to those credits will be made according to IRS guidance.

Suspension of Limitation on Percentage Depletion for Oil and Gas from Marginal Wells. The Act extends the temporary suspension of the taxable income limit on percentage depletion for oil and gas from marginal wells to depletion determined for taxable years beginning before January 1, 2012.

Extension of Grants for Specified Energy Property in Lieu of Tax Credits. The Act extends the start of construction date for the American Recovery and Reinvestment Act of 2009 grants for specified energy property in lieu of tax credits through 2011.

Extension of Provisions Related to Alcohol Used as Fuel. The Act extends the alcohol fuels credit to any sale or use of such fuels for any period on or before December 31, 2011. However, the credit does not apply to any period before January 1, 2012, during which time the Highway Trust Fund gasoline excise tax financing rates are 4.3 cents per gallon. In addition, the Act extends the reduced credit for ethanol blenders through 2011. The Act also provides that the payments for non-taxable alcohol fuel mixtures apply to such fuel sold or used on or before 2011.

Energy Efficient Appliance Credit. The Act extends the energy efficient appliance credit for qualifying dishwashers, clothes washers and refrigerators manufactured in calendar year 2011. The Act decreases the aggregate credit amount allowed to $25,000,000, less the credit amount allowed in all prior tax years. Also, the Act excludes the most efficient refrigerators and front-loading clothes washers from the aggregate credit amount.

Alternative Fuel Vehicle Refueling Property. The Act extends, from December 31, 2010, the alternative fuel vehicle refueling property credit to any non-hydrogen related property placed in service on or before December 31, 2011.

Business Tax Relief

Reseach Credit. Although the research credit expired on December 31, 2009, the Act extends the credit for amounts paid or incurred on or before December 31, 2011. The December 31, 2008 termination date for the alternative incremental credit election remains unchanged.

Indian Employment Credit. The Act extends, from December 31, 2009, the Indian employment credit to tax years beginning on or before December 31, 2011.

New Markets Tax Credit. The Act sets a new national designated investment limitation for the new markets tax credit of $3.5 billion in 2010 and 2011, and permits unused credits to be carried over to 2016.

Railroad Track Maintenance Credit. The Act extends, from December 31, 2010, the railroad track maintenance credit for 50% of qualified railroad track maintenance expenditures paid or incurred in taxable years beginning before January 1, 2012.

Mine Rescue Team Training Credit. The Act extends, from December 31, 2009, the mine rescue team training credit of 20% of the cost of training rescue team members to tax years beginning before January 1, 2012.

Employer Wage Credit for Employees Who Are Active Duty Members of the Uniformed Services. The Act extends, from December 31, 2009, the activated military reservist wage payment credit of 20% of differential wage payments made to activated military reservists for payments made before January 1, 2012.

15-Year Straight-Line Cost Recovery for Qualified Leasehold Improvements, Qualified Restaurant Buildings and Improvements, and Qualified Retail Improvements. The Act extends, from December 31, 2009, the special 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements to qualified property placed in service before 2012.

7-Year Recovery Period for Motorsports Entertainment Complexes. The Act extends, from December 31, 2009, the 7-year recovery period for motorsports entertainment complexes to property placed in service before 2012.

Accelerated Depreciation for Business Property on an Indian Reservation. The Act extends, from December 31, 2009, the accelerated depreciation rules for business property located on an Indian reservation to property placed in service before 2012.

Charitable Deduction for Contributions of Food Inventory. The Act extends the special rule for charitable deductions for contributions of food inventory made from the taxpayer's trade or business that expired on December 31, 2009, to contributions made on or before December 31, 2011.

Charitable Deduction for Contributions of Book Inventories to Public Schools. The Act extends the special rule for charitable deductions for contributions of book inventory to public schools that expired on December 31, 2009, to contributions on or before December 31, 2011.

Charitable Deduction for Corporate Contributions of Computer Inventory for Educational Purposes. The Act extends the special rule for charitable deductions for contributions of computer technology and equipment for educational purposes that expired on December 31, 2009, to contributions made on or before December 31, 2011.

Election to Expense Mine Safety Eqiupment. The Act extends, from December 31, 2009, the election to expense mine safety equipment, generally available for 50% of the cost of any qualified advanced mine safety equipment property, to property placed in service before 2012.

Special Expensing Rules for Certain Film and Television Productions. The Act extends, from December 31, 2009, the special expensing rules for certain film and television producers to qualified television or film production costs beginning before 2012. The deduction is generally applicable to the first $15 million of qualified television or film production costs.

Expensing of Environmental Remedial Costs. The Act extends, from December 31, 2009, the election to deduct environmental remediation costs in lieu of capitalization through December 31, 2011.

Deduction Allowable with Respect to Income Attributable to Domestic Production Activities of Puerto Rico. The Act extends the special domestic production activities rules for Puerto Rico to apply for the first six taxable years of a taxpayer beginning after December 31, 2005, and before January 1, 2012.

Modification of Tax Treatment of Certain Payments to Controlling Exempt Organizations. Under §512(b)(13)(E), certain payments made to an exempt organization by a controlled organization must be treated as unrelated business income. For payments received or accrued before January 1, 2010, the amount taken into income was limited to "excess payments" as determined under §482. The Act extends the excess payments rule to include payments received or accrued before January 1, 2012.

Treatment of Certain Dividends of Regulated Investment Companies. The Act extends, from December 31, 2009, the exemption from the 30% withholding tax and for qualified interest-related dividends and short-term capital gain dividends received by a foreign person from a regulated investment company (RIC) through December 31, 2011.

RIC Qualified Investment Entity Treatment Under FIRPTA. The Act extends, from December 31, 2009, the inclusion of a regulated investment company (RIC) within the definition of a "qualified investment entity" for purposes of determining whether a distribution from a RIC is subject to FIRPTA tax and withholding pursuant to §§897 and 1445 through December 31, 2011. The extension, however, does not apply to the withholding requirement for any payment made before the December 17, 2010 enactment date of the Act. However, a RIC that withheld and remitted tax on post-2009 distributions before the enactment date is not held liable to the distributee for such amounts.

Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property. Section 1367(a)(2) provides that an S corporation shareholder's §1367(a)(2)(B) basis reduction resulting from the corporation's charitable contribution of property equaled the shareholder's pro rata share of the adjusted basis of the contributed property. The Act extends this special rule from December 31, 2009, to contributions made on or before December 31, 2011.

Empowerment Zone Tax Incentives. The Act extends, from 2009, the designation of certain economically depressed census tracts as Empowerment Zones, within which businesses are eligible for special tax incentives, through 2011

Tax Incentives for Investment in the District of Columbia. The Act extends for two years (through 2011) the designation of certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone, within which businesses are eligible for special tax incentives.

Work Opportunity Credit. Businesses are allowed to claim a work opportunity tax credit equal to 40% of the first $6,000 of wages paid to new hires of one of nine targeted groups. While scheduled to expire August 31, 2011, the Act extends the credit through December 31, 2011, effective for individuals who begin work for an employer after December 17, 2010.

Exclusion of 100 Percent of Gain on Certain Small Business Stock. The Act extends the 100% exclusion of the gain from the sale of qualifying small business stock to stock that is acquired before January 1, 2012, and held for more than five years.

Qualified Zone Academy Bonds. Qualified zone academy bonds (QZABs) are tax credit bonds which offer the holder a tax credit instead of interest. They are used to finance renovations, equipment and course material purchases, and teacher training at a qualified zone academy. A qualified zone academy is generally a public school or academic program within that school located in an enterprise community or empowerment zone). The program is designed to work with the business community to increase graduation and employment rates. The Act extends the QZAB program by providing an additional $400 million for 2011. The Act also repeals the prior law direct subsidy feature of QZABs.

GO Zone Disaster Relief

Increase in Rehabilitation Credit. The Act extends, from December 31, 2009, the increased rehabilitation credit for qualified rehabilitation buildings and certified historic structures located in the Gulf Opportunity Zone, for amounts paid or incurred on or before December 31, 2011.

Low-Income Housing Credit Rules for Buildings in GO Zones. The Act extends the placed in service date for qualification of additional allocations of low-income housing credits made in 2006, 2007, and 2008 for buildings located in the GO Zone, the Rita GO Zone, or the Wilma GO Zone to buildings placed in service before January 1, 2012.

Bonus Depreciation Deduction Applicable to the GO Zone. The Act extends, from December 31, 2009, the additional depreciation deduction for Gulf Opportunity Zone extension property for property be placed in service by December 31, 2011.

If you would like any additional information concerning any of these changes, please contact Phil Jelsma at pjelsma@luce.com or 619.699.2565.