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End of Year Tax Planning: Taking Advantage of Expiring Tax Incentives

With year end quickly approaching, taxpayers should be aware of expiring federal income tax incentives. This summary highlights several of these tax incentives that expire at the end of this year and ways in which taxpayers can utilize them before they disappear.

Bonus Depreciation

For property placed in service during 2008 and 2009, taxpayers were entitled to additional first-year depreciation on qualified property equal to 50% of the adjusted basis of such property. Qualified property is defined to include the following i) property to which MACRS applies and has a recovery period of 20 years or less; ii) computer software (not covered by Code Section 197); iii) water utility property; or iv) qualified leasehold property. In addition, certain other requirements must be met to constitute qualified property.The Small Business Jobs Act of 2010 extended first-year bonus depreciation for qualified property placed in service during

2010 (certain long-lived property and transportation property may be placed in service in 2011).The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the "Tax Relief Act") extended 50% first-year bonus depreciation to qualified property placed in service through January 1, 2013.Additionally, the Tax Relief Act provided for 100% bonus depreciation for qualified property placed in service after September 8, 2010 and before January 1, 2012 (certain long-lived property and transportation property may be placed in service before January 1, 2013).In effect, taxpayers placing property in service between September 8, 2010 and January 1, 2012 will receive 100% bonus deprecation. Taxpayers placing qualified property in service after December 31, 2011 and before January 1, 2013 will only be able to take advantage of 50% bonus depreciation (unless the qualified property consists of certain long-lived property or transportation property).Therefore, taxpayers looking to purchase qualified property in the next few years may want to accelerate their purchase into 2011.

Section 179 Expensing

Code Section 179 allows the expensing of qualifying property that would otherwise have to be capitalized and depreciated over time. Qualifying property is generally defined as depreciable tangible personal property purchased for use in an active business.Prior to the Small Business Jobs Act of 2010, the amount that could be expensed under Code Section 179 for the 2010 tax year was limited to $250,000, and that amount would be phased-out as the cost of qualifying property placed in service in 2010 exceeded $800,000.For 2010 and 2011, the Small Business Jobs Act increased the amount that could be expensed under Code Section 179 to $500,000 and increased the phase-out threshold to $2,000,000. In addition, for the first time ever, taxpayers are allowed to expense "qualified real property," up to $250,000, under Code Section 179 for 2010 and 2011. Qualified real property is defined under the Small Business Jobs Act to include qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.Prior to the passage of the Tax Relief Act, beginning in 2012, the Section 179 expensing limit was scheduled to revert to $25,000 and the phase out threshold was scheduled to revert to $200,000. For tax years beginning in 2012, the Tax Relief Act provided that the Section 179 expensing limit will be $125,000 (indexed yearly for inflation) and the phase-out threshold will be $500,000 (indexed yearly for inflation). After 2012, the Section 179 expensing limit will revert to $25,000 (not indexed for inflation) and the phase out threshold will revert to $200,000 (not indexed for inflation).In order to best take advantage of the increased 2011 and 2012 Section 179 expensing increases, taxpayers should carefully plan their purchases. For example, if a taxpayer knows that the taxpayer's business will require $650,000 of Section 179 property, that taxpayer should attempt to purchase and place into service property worth $500,000 in 2011, $125,000 in 2012, and $25,000 in 2013, if possible. By deferring purchases in this manner, the taxpayer will be able to expense his or her purchases in full.

100% Exclusion on Gain from Sale of Qualified Small Business Stock

Qualified small business stock is the stock of a C corporation the gross assets of which do not exceed $50 million. Such stock must generally be acquired at its original issuance. Additionally, the corporation issuing the stock must meet certain requirements as an "active" business.Prior to the Small Business Jobs Act, individuals were allowed to exclude 50% of the gain realized on the sale of qualified small business stock (60% for Empowerment Zone qualified small business stock) that had been held for more than five years. However, the entire 50% was not eligible for exclusion by taxpayers subject to the AMT. Temporary legislation served to increase the excluded amount to 75% for qualified small business stock acquired after February 17, 2009, and before January 1, 2011. However, taxpayers subject to the AMT were still not eligible for the full 75% exclusion.Under the Small Business Jobs Act, 100% of gain realized from the sale of qualified small business stock acquired after September 27, 2010 and before January 1, 2011, and held for more than five years, was excluded from taxation by both taxpayers subject to regular tax and taxpayers subject to AMT. The Tax Relief Act extended this 100% gain exclusion to the sale of qualified small business stock acquired before January 1, 2012. As stated, this provision only applies to the disposition of qualified stock acquired before 2012. However, the President's proposed budget includes a provision that would make the exclusion of gain on the sale of qualified small business stock permanent.

Research Credit

The research credit authorized by Internal Revenue Code Section 41, which has been regularly extended since 1981, was once again extended by the Tax Relief Act. The credit, which expired on December 31, 2009, was extended by the Tax Relief Act through December 31, 2011 and is effective for amounts paid or incurred after December 31, 2009

15 Year Straight-Line Cost Recovery

Prior legislation allowed a fifteen year straight-line cost recovery period for certain qualified leasehold improvements, restaurant buildings and retail improvements placed in service prior to 2010. The Tax Relief Act extended these provisions to properties placed in service before 2012. After December 31, 2011, taxpayers must instead depreciate such property over 39 years.

Work Opportunity Credit

With the Work Opportunity Credit, employers were eligible for a credit of 40% of up to $6,000 in first-year wages paid to new hires from certain targeted groups, subject to certain requirements and limitations. These groups included members of families receiving assistance under the Temporary Assistance to Needy Families (TANF) program, qualified veterans, designated community residents, and others. The program was set to expire August 31, 2011. The Tax Relief Act extended the program through December 31, 2011 and is effective for individuals who began work after December 17, 2010 (the date the Tax Relief Act was enacted.)

Rehabilitation Credit

The rehabilitation credit is available to eligible taxpayers that make improvements to "qualified rehabilitated buildings" and "certified historic structures." The amount of the credit is generally ten percent of the cost of improvements made to qualified rehabilitated buildings and twenty percent of such costs for certified historic structures. For buildings located in the Gulf Opportunity Zone, the rehabilitation credit was increased to thirteen percent and twenty six percent, respectively, but the increased credit expired at the end of 2009. The Tax Relief Act extended the increased rehabilitation credit for buildings located in the Gulf Opportunity Zone through December 31, 2011.

Go Zone Bonus Depreciation

Taxpayers are allowed an additional fifty percent bonus depreciation deduction for Gulf Opportunity Zone Extension Property as defined in the Internal Revenue Code. In order to qualify for the additional deduction, property generally had to be placed in service prior to December 31, 2010. However, for nonresidential real property or residential rental property, only the costs incurred to manufacture, construct, or produce such property before January 1, 2010 qualified. The Tax Relief Act extended the fifty percent bonus depreciation deduction for Gulf Opportunity Zone Extension Property through

December 31, 2011. The Tax Relief Act requires that the property be placed in service by December 31, 2011, and for nonresidential real property or residential rental property, the costs incurred to manufacture, construct or produce such property before January 1, 2012 will qualify. **Back to Top**

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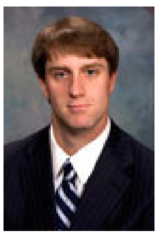

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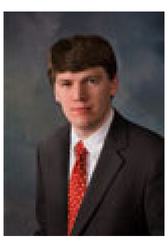

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