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CONGRESS PASSES LEGISLATION TO PROVIDE TAX BREAKS TO BUSINESSES

On September 23rd the House of Representatives passed H.R. 5297 Bill that provides tax breaks and other incentives to businesses. It is anticipated that the bill previously passed by the Senate, will be signed into law shortly. Some of the key provisions of the legislation are as follows:

- **Capital gains exclusion.** The bill temporarily increases the capital gains exclusion percentage to 100 percent for stock issued by some small businesses, through the end of the year. The gain is limited to 10 times the original investment or $10 million, whichever is greater. It is not subject to the alternative minimum tax.
- **Built-in gains tax.** Normally, when a company converts from a C corporation to an S corporation, it must retain its assets for at least 10 years, or pay a 35 percent tax on the built-in gains that occurred before the company made the conversion. Prior legislation reduced the holding period to 7 years for assets sold in 2009 and 2010; this bill reduces the period to 5 years for an asset sold in the 2011 tax year.
- **Section 179 expensing.** The bill temporarily increases the first-year write-off for business equipment under Section 179 from $250,000 to $500,000, and raises the cap on eligible expenditures that triggers a phase-out of the incentive from $800,000 to $2 million. These provisions expire after 2011.
- **Accelerated depreciation of real estate.** Certain investments up to $250,000 in "qualified real property" can now be expensed. "Qualified real property" includes certain leasehold improvements, certain restaurant property, and certain retail property.
- **Bonus depreciation.** The bill restores the generous 50 percent first-year depreciation for some kinds of property, through 2010. Bonus Depreciation was originally enacted in the first stimulus bill and in place for 2008 and 2009. The bill also makes a technical change that decouples bonus depreciation from the allocation of certain contract costs.
- **Start-up deduction.** The bill increases the deduction for start-up expenditures to $10,000, from $5,000 through 2010, and raises the cap on expenditures that triggers a phase-out of the deduction to $60,000, from $50,000.
- **Deduction for health insurance costs.** The bill allows self-employed business owners to deduct their family's health insurance expenses from their self-employment tax income in 2010.
- **Deducting cell phones.** The bill makes it easier to deduct or depreciate cell phones by removing them from the category of "listed property." Listed property, when it is not used by the business more than half the time, is subject to stringent limits on deductions and depreciation.

- **SBA Loans.** The bill extends the 90 percent guarantee level and waives borrower fees first enacted in the 2009 stimulus, through 2010. Note that these provisions largely expired in May. It also permanently raises the maximum loan size to $5 million, from $2 million. In addition, the bill temporarily—for one year from the date it is enacted—raises the maximum loan size to $1 million from $350,000. Moreover, it extends current legislation provisions that eliminated borrower fees, through 2010. This bill permanently raises the maximum loan sizes from a range of $1.5 million to $4 million, to a range of $5 million to $5.5 million. It temporarily—for two years after the date of enactment—allows 504 loans to be used to refinance some existing commercial mortgages.

More information about the legislation can be found here.