Virginia Business Lawyers

Small Business Jobs Act

By: David Carroll. ***This was posted Thursday, December 9th, 2010***

With the media frenzy and political back and forth over the extension of the Bush Tax Cuts, you might have missed the 2010 Small Business Jobs Act (SBJA), signed into law on September 27, 2010. This new law includes a broad spectrum of tax relief designed to stimulate business investment and spending. The hope is to pump some life into the largest category of employer in our economy – the small, privately owned businesses.

The Act's title of "small business" is somewhat of a misnomer. Its provisions have a significant impact on businesses of all sizes, not simply small ones. In addition, the new law includes some retirement savings incentives for individuals and other provisions unrelated to small businesses jobs creation.

Over the next few weeks we will be featuring a series of articles on this important law and discussing the elements of the SBJA that all businesses should be aware of.

Bonus Depreciation

The Bonus Depreciation needs to be our first topic first because it is an expense deduction that can be taken immediately for certain qualifying property but, in order to be eligible for 2010 tax benefit, the equipment must be placed in service now before year's end.

The SBJA extends the 50-percent additional first-year bonus depreciation for the 2010 tax year. Under this law, all businesses, regardless of size, can immediately depreciate an additional 50-percent of the cost of specified property purchased and placed in service in 2010. This is in addition to the IRS Code Sec.179 expensing (allowing expense deductions for capital investments), which was also extended by the SBJA through 2011. The effect of this is to enhance significantly the deductions for capital purchases and thus reducing corporate taxes.

Bonus depreciation is allowed only for: (1) tangible property to which Modified Accelerated Cost Recovery System. ("MACRS") applies that has a recovery period of 20 years or less, water utility property, certain computer software, and qualified leasehold improvement property. Except for certain computer software, the depreciation is not usable for other intangible property.

The bonus depreciation deduction is calculated by multiply the unadjusted depreciable basis of the property by 50-percent. This is the amount of depreciation the business can deduct in the first year in addition to the regular depreciation. If your business purchases a machine in 2010, for example, for $50,000 and it qualifies for the bonus deduction, your business would be allowed to deduct $25,000 in first-year depreciation. In addition, the remaining cost of the machine is available for the normal deduction under MACRS. This is a significant acceleration of the cost recovery business expense deduction.

In order to take the deduction for the 2010 tax year, however, your business must put the equipment into service in 2010. We don’t advise doing deals based on tax impact alone, but if your business was otherwise in the market for that qualifying capital equipment, now is the time to buy.

Stay with us for this series on the new Small Business Jobs Act. We will keep you informed of other important provisions of the SBJA. This law, if understood and used, will have a significant impact on your businesses after-tax cash flow. If you have any questions please contact us here at Sands Anderson.

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