Overview of the New “Fiscal Cliff” Law – Key Tax Provisions for Businesses

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The new American Taxpayer Relief Act affected individuals and businesses alike. Donna’s article in this issue covers some of the main tax provisions for individuals. Here is a summary of the main tax provisions of interest to business taxpayers.

Section 179 deduction: Section 179 of the tax code allows you to currently deduct the cost of assets placed in service during the year up to a specified maximum. But the deduction begins to phase out at a dollar threshold. After a series of recent ups and downs, the new law authorizes a $500,000 maximum deduction and $2 million threshold through 2013, retroactive to January 1, 2012. It also permits a deduction of up to $250,000 for the cost of qualified leasehold improvement property, restaurant property and retail improvement property.

Bonus depreciation: A business may also claim “bonus depreciation” for qualified assets placed in service during the year. The new law generally restores the 50% bonus depreciation tax break that was in effect for 2012 (previously, 100% bonus depreciation was allowed) through 2013.

Research credit: Under prior law, a business could claim a tax credit equal to 20% of its qualified research expenses above a base amount or use a simplified 14% credit. The credit officially expired after 2011. Now the new law reinstates the research credit, retroactive to January 1, 2012, and extends it through 2013.

Work Opportunity Tax Credit: Prior to 2012, a Work Opportunity Tax Credit (WOTC) was available for hiring a worker from a “target group.” The WOTC was generally equal to 40% of the first $6,000 in wages paid to a new-hire. The new law extends the WOTC through 2013, retroactive to January 1, 2012. Other special rules apply to the hiring of qualified veterans.

Leasehold improvements and restaurants: Previously, using the straight-line method, a 15-year cost recovery period was available for qualified leasehold improvements, restaurant buildings and improvements, and retail improvements. This tax break expired after 2011. The new law extends the 15-year cost recovery period through 2013, retroactive to January 1, 2012.

S corporation tax: If a corporation converts into an S corporation, the S corporation must hold assets for a specified time to avoid the “built-in gains” (BIG) tax. The holding period for the BIG tax was gradually

reduced from 10 years to five years for sales of assets in 2011. The new law extends the reduced five-year holding period for sales occurring through 2013, retroactive to January 1, 2012.

Qualified small-business stock: For "qualified small-business stock" (QSBS) acquired before 2012, a seller could exclude 100% of the gain (up from 75% in the prior year) from tax if the QSBS was held for more than five years. Now, the new law extends the 100% tax exclusion to sales of QSBS acquired before January 1, 2014.

Remember that this is only an overview of the key provisions in the new tax law. Consult your Henry & Horne, LLP tax professional concerning the application of the new rules to your situation.

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