President Obama Signs Tax Increase Prevention Act of 2014: Provides Temporary "Extenders"

December 23, 2014

On December 19, 2014, less than two weeks prior to the close of the 2014 tax year, President Barack Obama signed the Tax Increase Prevention Act of 2014. This legislation retroactively extends multiple tax provisions that were set to expire at the end of 2013. The plan achieves what lawmakers called the "bare minimum" package needed to avoid delaying tax refunds.

Previously, there had been a tentative deal between House Ways and Means Committee Chairman Dave Camp, R-Mich., and Senate Majority Leader Harry Reid, D-Nev., that would have extended some of the expiring provisions permanently, including the research tax credit and Section 179 expensing for small businesses, and renewed the remainder of these provisions for another two years. However, this preliminary deal had to be reworked when President Obama threatened to veto the package.

The benefits in this bill are short lived however, because the bill serves only as a one-year patch for many beneficial provisions that otherwise would have expired at the end of 2013. Because the enacted law is a one-year extension, each provision at issue is scheduled to expire again – this time on December 31, 2014. While reliable planning may be limited due to the timing of the legislation's enactment, there are planning opportunities available to taxpayers in many industries. This Alert identifies some of the more widely applicable tax provisions addressed in the new law. However, because the 2014 Legislation extends more than 50 diverse tax benefits for businesses and individuals, taxpayers are well-advised to review the new law carefully with tax counsel.

Business Provisions

The following section outlines some of the major business tax provisions that were extended to apply to 2014:

- R&D Credit. This is a tax credit for increasing research activities. Readers should note that the research credit allowed normally is equal to 20% of the amounts by which of qualified research expenses for the tax year exceed a base amount (unless the taxpayer elects the alternative simplified research credit). The rules, which are complex, remain consistent with the rules that were applicable in the law that was set to expire at the end of 2013.
- Low-income Housing Credit. This is a tax credit rate for newly constructed non-federally subsidized buildings.
- The new markets tax credit. The provision would authorize the allocation of an additional $3.5 billion of new markets tax credits for 2014.
- Accelerated depreciation of qualified leasehold improvement, restaurant, and retail improvement property, of motorsports entertainment complexes, and of business property on Indian reservations.
- Bonus depreciation allowed in the year property is acquired equal to 50% of the depreciable cost of the property was extended to apply to property placed in service before January 1, 2015. This change prevents many unexpected tax increases for business in capital intensive industries.
- Section 179 Expense. The increased expensing allowance for business assets, computer software, and qualified real property (i.e., leasehold improvement, restaurant, and retail improvement property) was extended to allow property with a cost of up to $500,000 to be expensed currently (with a limit of $2,000,000 in total property placed in service before the Section 179 limit would be reduced). This change avoided the Section 179 Expense amount being reduced to $25,000 (with a limit of $200,000 in total property placed in service limit). Tax rules relating to payments between related foreign corporations and dividends of regulated investment companies. The provision would extend through 2014 provisions allowing for the pass-through character of interest-related dividends and short-term capital gains dividends from regulated investment companies to non-resident aliens.

- The subpart F income exemption for income derived in the active conduct of a banking, financing, or insurance business.
- Exclusion of 100% of gain on certain small business stock.
- The reduction of the recognition period for the built-in gains of S corporations. The provision would extend, to sales of assets occurring during 2014, the rule reducing to five years (rather than 10 years) the period for which an S corporation must hold its assets following conversion from a C corporation to avoid the tax on built-in gains.

Individual Provisions

The following section outlines some of the major individual tax provisions that were extended to apply to 2014 activities:

- The tax deduction of expenses of elementary and secondary school teachers.
- The tax exclusion of imputed income from the discharge of indebtedness for a principal residence.
- The tax deduction of mortgage insurance premiums.
- The tax deduction of state and local general sales taxes in lieu of state and local income taxes.
- The tax deduction of qualified tuition and related expenses.
- The tax exemption of distributions from individual retirement accounts for charitable purposes.

The new law signed by President Obama also includes the Achieving a Better Life Experience Act of 2014, or ABLE Act. This Act allows each state to set up tax-advantaged accounts for the care of persons with disabilities. Income earned by the accounts, which have a limit of $14,000, would be tax-free. The House passed the ABLE Act as a separate bill the same day it passed the extenders legislation, and the two were later combined.

It bears repeating that these extenders are only available through December 31, 2014. While there is certainty for tax year 2014, watch for additional updates from Dykema’s Taxation Practice in 2015 as the uncertainty for future tax years continues and tax bills – both temporary “patches” and real reform bills – likely will be introduced as 2015 progresses.

To learn more about the extenders which may impact you or your business, or any other tax-related matters, please contact the author of this alert, Bill Lentine (wlentine@dykema.com or 313-568-5371).

Practice Areas

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