Tax Alert

Extension of Popular Tax Provisions Is Now Law

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Introduction

A number of popular and important tax provisions that expired as of the beginning of 2014 have recently been given a retroactive one-year extension by Congress. While not all of the expired provisions were extended, those that were (which include the most important expired deductions and credits) should provide relief to taxpayers - both individuals and businesses.

Details of the passing of the bill

On December 3, 2014, the House of Representatives passed The Tax Increase Prevention Act of 2014 (H.R. 5771) by a bipartisan vote of 378-46. The bill was forwarded to the Senate, and approved on December 16th, by a vote of 76-16. The President signed the bill on December 19th.

The bill changes the expiration date of a number of provisions from 12/31/2013 to 12/31/2014 (or an equivalent change). Except for changing the expiration date, no other part of the extended laws were altered. The Tax Increase Prevention Act does not include any revenue offsets.

Highlights of popular and important provisions

Key provisions of the extension package include:

Individual Taxpayer Provisions

Deduction for State and Local General Sales Taxes

Since the 2004 tax year, taxpayers can elect to deduct state and local general sales taxes in lieu of the state and local income tax itemized deduction. This deduction is frequently utilized in states with low or no state income tax.

Deduction for Certain Expenses of Elementary and Secondary School Teachers

Since the 2002 tax year, eligible elementary and secondary school teachers can deduct up to $250 of school expenses.

Above-the-Line Deduction for Qualified Tuition and Related Expenses

Since the 2002 tax year, eligible taxpayers can elect to reduce their Adjusted Gross Income (AGI) by up to $4,000 of qualified tuition and related expenses.

Discharge of Indebtedness on Principal Residence

When a bank discharges the qualified principal residence indebtedness (commonly known as mortgage debt), the amount forgiven, which is non-cash or "phantom" income, continues to be excluded from the borrower's taxable income in the year of discharge (a special provision enacted during the recession of 2008 and 2009).

Premiums for Mortgage Insurance Deductible as Interest

The premiums paid or accrued for qualified mortgage insurance in connection with acquisition indebtedness with respect to a qualified residence are considered qualified residence interest. This provision allows a taxpayer to deduct the premiums as itemized deductions (subject to a phase out).

Parity for Exclusion from Income for Employer-Provided Mass Transit and Parking Benefits

Employees are permitted to exclude from income qualified parking fringe benefits of $250 per month (indexed for inflation) in 2014. The act permits an extension of the parity between qualified parking fringe benefits and qualified transportation expenses (such as transit passes) for 2014. Without the parity extension, qualified transportation expenses would have been limited to $130 per month.

Business Related Provisions

Tax Credit for Research and Experimentation Expenses

This credit has a significant effect on many businesses' research and experimentation spending. Eligible taxpayers can claim an income tax credit equal to a percentage of certain qualified research expenditures.

Additional First Year Depreciation for 50% of Basis of Qualified Property

For certain qualified assets (MACRS property with a recovery period of 20 years or less, depreciable computer software, water utility property, or qualified leasehold improvement property) placed in service after December 31, 2007, an additional 50% first year bonus depreciation is permitted.

Increase in Expenses to $500,000/$2,000,000 and Expansion of Definition of Section 179 Property

For the 2014 tax year, the amount of qualifying property that is eligible to be expensed rather than capitalized and depreciated remains at $500,000 and the cap on the total investment in eligible assets remains at $2,000,000. Without the extension, the amount that could have been expensed in tax years after 2013 would have been $25,000 with a $200,000 investment limitation.

Work Opportunity Tax Credit

This credit is available to businesses that hire and pay wages to employees in a targeted group. The targeted groups include qualified IV-A recipients, qualified veterans, qualified ex-felons, designated community residents, vocational rehabilitation referrals, qualified summer youth employees, qualified supplemental nutrition assistance program benefits recipients, qualified SSI recipients, and long-term family assistance recipients.

15 Year Straight-Line Cost Recovery for Qualified Leasehold Improvements, Qualified Restaurant Buildings & Improvements, and Qualified Retail Improvements

For certain qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements as defined and placed in service after October 22, 2004, the recovery period for calculating the depreciation expense is 15 years.

Election to Accelerate AMT Credits in Lieu of Additional First Year Depreciation

A corporate taxpayer may elect to claim a portion of its unused alternative minimum tax credits attributed to tax years beginning before January 1, 2006 in lieu of utilizing the bonus depreciation deduction. Except for certain assets, the qualified property must be placed in service before January 1, 2015.

Special Rules for Qualified Small Business Stock

For stock acquired after September 27, 2010, there is a 100% exclusion for the gain on the sale or exchange of qualified small business stock held for more than 5 years by non-corporate taxpayers.

Reduction in S Corporation Recognition Period for Built-In Gains Tax

For the 2014 tax year, the recognition period remains at five years when calculating the built-in gains tax. Without the extension, the recognition period would have reverted back to 10 years.

Charitable Related Provisions

Tax-Free Distributions from Individual Retirement Plans for Charitable Purposes

Taxpayers can continue to make qualified charitable distributions of up to $100,000 from an IRA directly to a charitable organization. The distribution counts toward the taxpayer's required minimum distribution but the amount cannot be claimed as a charitable donation.

Special Rules for Contributions of Capital Gains Real Property Made for Conservation Purposes

For tax years after December 31, 2005, a taxpayer receives a charitable contribution deduction by donating qualified real property that is exclusively used for conservation purposes, and protected in perpetuity, to a qualified organization.

Enhanced Charitable Deduction for Contributions of Food Inventory

Taxpayers who donate food inventory to charities that care for the ill, needy, or infants may claim a charitable deduction that is valued at the item's basis plus 1/2 of the item's appreciation or 2 times the donated item’s basis.

Basis Adjustment to Stock of S Corporations Making Charitable Contributions of Property

Taxpayers are permitted to reduce their S corporation basis due to a charitable contribution by the company in the amount of the shareholder's pro rata share of the adjusted basis of the property donated.

Foreign Related Provisions

Exceptions Under Subpart F for Active Financing Income

Foreign personal holding company income continues to exclude income derived in the active conduct of a banking, financing or similar business.

Look-Through Treatment of Payments Between Related Controlled Foreign Corporations Under the Foreign Personal Holding Company Rules

Passive income, such as dividends, interest, rents, and royalty payments, received by a controlled foreign corporation from a related corporation continue to be subject to look-through treatment.

RIC Qualified Investment Entity Treatment Under the Foreign Investment in Real Property Tax Act

Regulated Investment Companies will continue to be considered as qualified investment entities that are United States real property holding companies.

Treatment of Certain Dividends of Regulated Investment Companies

Regulated Investment Company dividends, reported as either interest-related or short-term capital gain dividends to nonresident aliens or foreign corporations remain exempt from the 30% withholding tax.

Energy Related Provisions

Credit for Construction of New Energy Efficient Homes

This credit is available to eligible contractors who build energy efficient homes, fulfilling certain criteria that are sold to people for use as residences. The amount of the credit is based upon the energy savings requirements defined by the statute.

Energy Efficient Commercial Buildings Deduction

For energy efficient property placed in service, a deduction of up to $1.80 per square foot may be claimed. The property purchased must be certified to meet technical standards for energy and power cost reduction.

Geography Related Provisions

Empowerment Zone Tax Incentives

Empowerment Zones are economically depressed areas that receive specific tax benefits such as tax exempt bonds, empowerment zone employment credits, increased section 179 benefits, empowerment zone gain rollover, and gain exclusion for qualified small business stock.

New Markets Tax Credit

The New Markets Tax Credit is an incentive for taxpayers to invest in economically distressed areas. The credit is based upon an applicable percentage of the amount paid to a community development entity as an investment.

Deduction Allowable with Respect to Income Attributable to Domestic Production Activities in Puerto Rico

For tax years beginning after December 31, 2005, Puerto Rico is considered to be a part of the United States for determining domestic production gross receipts.

Other important parts of the bill

The Tax Increase Prevention Act contains extensions of two additional expiring tax laws pertaining to multiemployer plans (originally part of the Pension Protection Act of 2006). The first permits multiemployer defined benefit pension plans an additional five years to amortize any funding shortfalls. The second continues special rules allowing severely underfunded plans to use or not use the shortfall funding method without Treasury approval. The act also contains technical and clerical error corrections, and removes a number of "deadwood" provisions from the tax code. Further, the Tax Increase Prevention Act incorporates the Achieving a Better Life Experience (ABLE) Act of 2014 (H.R. 647). This legislation permits certain individuals with disabilities (and their caregivers) to create Section 529 tax-preferred savings accounts (like college savings plans) to pay for certain qualified disability expenses (like housing and education). The ABLE portion of the act is revenue neutral.

Comment on the fact that the provisions expire again after December 31, 2014

Congress was unable to come to an agreement for a more long-term solution to the expiration problem. The effect of the retroactive extension is that all of the recently extended provisions will expire again in 12 days. Members of congress will have to return to the negotiating table in early 2015 to address the newly re-expired provisions.

Conclusion

Your WeiserMazars tax professional can help you understand all of these tax provisions.

Please contact your WeiserMazars tax professional for more information.

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