

Tax Alert

PI & CERELLI, GILSTEIN
COMPANY, LLP

Certified Public Accountants and Consultants

The Small Business Jobs Act of 2010

September 2010

On September 27, 2010, President Obama signed the Small Business Jobs Act of 2010 which includes small business tax breaks in addition to several revenue raisers. Details of the Act include:

Business Incentives

Businesses have an incentive to purchase equipment during 2010 and 2011. The first incentive is the immediate expensing of the equipment.

- The business now has the ability to expense up to \$500,000 of asset additions as long as total assets purchased do not exceed \$2 million.
- The \$2 million limit allows more businesses to be able to take advantage of this provision. Prior to this provision, the limit was \$800,000.
- Certain leasehold improvements for commercial real estate, restaurants and retail establishments are also eligible for expensing. The amount expensed is limited to \$250,000.
- Computer software is also eligible for expensing.
- This provision is applicable to tax years starting in 2010 and 2011.

The second incentive is bonus depreciation.

- In addition to expensing the equipment immediately, as long as the equipment is new, an additional 50% of the remaining cost can be written off in the first year.
- This provision is helpful for businesses purchasing more than \$500,000 or \$2 million in assets.
- Any assets placed in service during 2010 are eligible for this benefit.

Additional Business Incentives

- Allowing general business credits of small businesses to be carried back for five years and not making those credits subject to the alternative minimum tax. A small business qualifies if the average annual gross receipts of the business for the three preceding taxable year period do not exceed \$50 million.
- A 100% exclusion for capital gains from the sale of certain small business stock.
- An increase in the allowable deduction for startup business expenses.
- The S corporation built-in gain recognition period is reduced to a five year period for taxable years beginning in 2011.

Self-Employed Individuals

Self-employed individuals will have a reduction in their self-employment taxes.

- The self-employed health insurance deduction will now be allowed as a deduction against the business owner's self-employment income when calculating the self-employment tax.
- The premiums cover the individual, the spouse, dependents and children under the age of 27.
- For most taxpayers, the deduction saves 15.3% in self-employment taxes.
- This provision is applicable for 2010 only.

Cell Phones

Documentation relating to cell phones has been reduced.

- Cell phones are no longer considered listed property. As a result, the detail substantiation of the personal use of the cell phone has been reduced. Prior to this legislation, employees with business cell phones had the burden of tracking the personal use of the phone.

(next page)

Piccerelli, Gilstein & Company, LLP • 144 Westminster Street • Providence, RI 02903 • 401-831-0200 • pgco.com

Material discussed is meant to provide general information and should not be acted on w

To ensure compliance with Treasury Department regulations, we wish to inform you that an is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-n provisions or (ii) promoting, marketing or recommending to an

Cell Phones

(Continued)

- The employer was required to include personal use of the cell phone as compensation to the employee. At this time, personal use of business cell phones is still considered compensation
- The IRS has the authority to determine that the personal cell phone use is de minimis and administration of the personal use would be impractical.
- The provision is effective for tax years ending after December 31, 2009.

Rental Property

More paperwork is required for taxpayers who receive income from rental property.

- Landlords will now be required to prepare Forms 1099 when they pay an unincorporated business for services exceeding \$600 in a year.
- For example, when someone mows the lawn, the landlord must accumulate the payments made and if the payments exceed \$600 in a year, the landlord will send the IRS and the service provider a Form 1099.
- IRS expects this to reduce the tax gap. Landlord is likely to take deductions for amounts actually paid and the service provider is more likely to report the income.
- The provision is for payments after December 31, 2010.
- There is an exclusion for individuals for whom complying with the requirement would cause a hardship. IRS will issue regulations.
- There is an exclusion for individuals who receive rental income of not more than the minimal amount, as determined by IRS regulations.

Revenue Raisers

Penalties are included as revenue raisers.

- Information return penalties for not filing the form or filing late are doubled.
- Intentionally not sending the Forms 1099 will cause a penalty of \$250, up from \$100.
- The increased penalties will apply to forms required to be filed on or after January 1, 2011.

(Continued)

Additional Revenue Raisers

Roth Contributions

More taxpayers are eligible for Roth contributions.

- Participants in government Section 457 plans will be able to treat elective deferrals as Roth contributions.
- Participants in 401(k) and 403(b) plans are already eligible to treat their elective deferrals as Roth contributions.
- This is a revenue raiser since the participant will be paying taxes on the contribution to the Roth.
- Effective for tax years beginning after 2010.

Distributions from employer plans are also eligible for rollover to a Roth account.

- Participants eligible for distributions from employer plans are allowed to rollover the distributions to a designated Roth account as long as the plan allows elective deferrals to be contributed to a designated Roth account.
- The distribution must be an eligible rollover.
- The rollover would be subject to tax but it allows for the tax free growth in the account.
- The administration of the employer plan would also be less than if the individual established his or her own Roth IRA.
- Distributions after the date of enactment are eligible.
- Employer plans can make the rollovers before they amend their documents to allow the rollover.

**PI & CERELLI, GILSTEIN
& COMPANY, LLP**

Certified Public Accountants and Consultants

144 Westminster Street
Providence, RI 02903
pgco.com | 401-831-0200

Patricia A. Thompson, Tax Partner

Contact: 401-831-0200 patt@pgco.com