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ACCOUNTANTS & ADVISORS

MARKS PANETH TAX ALERT: BUSINESSES, INDIVIDUALS BENEFIT FROM LATEST TAX RELIEF EXTENDER LAW

On Dec. 16, the Senate passed the Tax Increase Prevention Act of 2014 (TIPA), which the House had passed on Dec. 3. It now goes to President Barack Obama and he is expected to sign it. TIPA is the latest "extender" package, a stopgap measure that retroactively extends through Dec. 31, 2014, certain tax relief provisions that expired at the end of 2013. It was drafted after the collapse of negotiations over a bill that would have made some of the provisions permanent, while extending others for two years. It now goes to President Barack Obama for his signature.

Several provisions in particular can produce significant tax savings for businesses and individuals on their 2014 income tax returns — but quick action (before Jan. 1, 2015) may be needed to take advantage of some of them.

Provisions affecting businesses

TIPA provisions most relevant to businesses include:

***50% bonus depreciation*.** This additional first-year depreciation allows businesses to recover the costs of depreciable property more quickly for qualified assets. Qualified assets include *new* tangible property with a recovery period of 20 years or less (such as office furniture and equipment), off-the-shelf computer software, water utility property and qualified leasehold improvement property. The provision also allows corporations to claim unused alternative minimum tax credits in lieu of bonus depreciation.

The bonus depreciation extension generally applies only to property placed in service in 2014, so if you anticipate making major asset purchases in the next year or two, you might want to act quickly to make them before year end to take advantage of these benefits. But bear in mind that, if you qualify for Section 179 expensing, it could provide a greater tax benefit.

***Sec. 179 expensing election*.** TIPA extends higher limits under Sec. 179 of the Internal Revenue Code, which permits businesses to immediately deduct — or "expense" — the cost of

qualified assets (such as tangible personal property and off-the-shelf computer software) that are purchased for use in a trade or business in the year they're placed in service, instead of recovering the costs more slowly through depreciation deductions.

Because of the extension, a business can deduct up to $500,000 in qualified new or used assets. The deduction is subject to a dollar-for-dollar phaseout once the cost of all qualifying property placed in service during the tax year exceeds $2 million, meaning smaller businesses generally reap the greatest benefit. The expensing election can be claimed only to offset net income, not to reduce net income below zero.

Without the extension, the limit for 2014 would have dropped to $25,000, with a $200,000 phaseout threshold. Now it's scheduled to do so on Jan. 1, 2015.

If your business is eligible for full Sec. 179 expensing, you might obtain a greater benefit from it than from bonus depreciation, because the expensing provision can enable you to deduct 100% of an asset acquisition's cost. Moreover, Sec. 179 expensing is available for both new and used property. Bonus depreciation, however, could benefit more taxpayers than Sec. 179 expensing, because it isn't subject to any asset purchase limit or net income requirement. You'll also want to consider state tax consequences.

***Depreciation-related breaks for qualified leasehold improvement, restaurant and retail-improvement property*.** TIPA extends the ability to:

- Apply up to $250,000 of the $500,000 Sec. 179 expensing limit to such property, and
- Apply a shortened recovery period of 15 years — rather than 39 years — to such property.

***Research credit*.** This credit (also commonly referred to as the "research and development" or "research and experimentation" credit) provides an incentive for businesses to increase their investments in research. The credit, generally equal to a portion of qualified research expenses, is complicated to calculate, but the tax savings can be substantial.

***Work Opportunity credit*.** This credit is available for hiring from certain disadvantaged groups, such as food stamp recipients, ex-felons and veterans who've been unemployed for four weeks or more. The maximum credit ranges from $2,400 for most groups to $9,600 for disabled veterans who've been unemployed for six months or more.

***Transit benefit parity*.** TIPA extends the provision that established equal limits for the amounts that can be excluded from an employee's wages for income and payroll tax purposes for parking fringe benefits and van-pooling / mass transit benefits. The limits for both types of benefits are now $250 per month for 2014. Without the extension of parity, the limit for van-pooling / mass transit would be only $130.

Provisions affecting individuals

It's not just businesses that benefit from the tax extenders. The following extended provisions can pay off for individual taxpayers:

***IRA distributions to charity*.** Taxpayers who are age 70½ or older can make direct contributions from their IRA to qualified charitable organizations in 2014 without incurring any income tax on the distribution, up to $100,000 per tax year. You can even use the contribution to satisfy a required minimum distribution.

***State and local sales taxes deduction*.** Individuals can take an itemized deduction for state and local *sales* taxes instead of for state and local *income* taxes. This option can be valuable for taxpayers who live in states with no or low income tax rates or purchase major items, such as a car or boat. If you're thinking about making a major purchase, it might be worthwhile to do so before 2015.

***Small business stock gains exclusion*.** Gains realized on the sale or exchange of qualified small business stock (QSBS) acquired after Sept. 27, 2010, and before Jan. 1, 2015 (rather than Jan. 1, *2014*), will be eligible for an exclusion of 100% if the QSBS has been held for at least five years. A qualified small business is a domestic C corporation that holds gross assets of no more than $50 million at any time (including when the stock is issued) and uses at least 80% of its assets in an active trade or business.

The QSBS gain exclusion has been especially valuable ever since the capital gains tax rate increased for high-income taxpayers. And the excluded gain is also exempt from the 3.8% net investment income tax. So you might want to consider purchasing such stock before year end.

***Qualified tuition and related expenses deduction*.** The above-the-line tuition and fees deduction may be beneficial to taxpayers who are ineligible for education-related tax *credits*, though income-based limits also apply to the deduction. The expenses must be related to

enrollment at an institution of higher education during 2014 or, if the expenses relate to an academic term beginning during 2014, during the first three months of 2015.

***Energy-efficiency tax credits*.** TIPA extends many (but not all) credits related to energy efficiency.

An ongoing battle

Although there's been a lot of talk about Congress passing comprehensive tax reform legislation, it's quite possible that we could reach the end of 2015 before knowing whether the provisions discussed above will apply for the 2015 tax year. That's why your tax planning needs to be a year-round activity. We can help you keep on top of how new legislation, as well as changes in your circumstances, affect your planning.

FOR MORE INFORMATION

If you have questions about this alert, please contact John Evans, Partner, by phone at 212.503.6380 or by email at jevans@markspaneth.com or any of our Marks Paneth professionals.