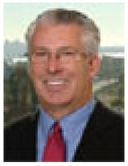

Blake Christian

Federal Rescue Package Packed With Business Tax Incentives

Four top incentives explored.

November 13, 2008
by Blake Christian, CPA/MBT

H.R. 1424, which was passed as part of the Wall Street bailout package, includes a wide variety of tax provisions totaling nearly $150 billion of tax benefits. H.R. 1424 includes: The Emergency Economic Stabilization, Energy Improvement and Extension and Tax Extenders and AMT Relief Acts of 2008 (collectively “The Rescue Bill”).

With the economic challenges facing U.S. businesses, these provisions offer a variety of immediate tax savings for a wide cross-section of industries. Most provisions are effective for 2008, with retroactive effective dates.

This article highlights some of the broader provisions of the Rescue Bill; however there are numerous other provisions that are worth exploring.

Business Extenders

- 15-year (vs. 39) straight-line cost recovery for qualified leasehold, restaurant and retail improvements are extended through 2008.
- The 20 percent research tax credit (including the energy research consortium credit) is extended through 2009. In addition, the alternative “simplified credit” is increased from 12 percent to 14 percent through calendar 2009 and the alternative incremental research is repealed for the 2009 tax year.
- Other provisions extended through 2009 include:

  - Qualified zone academy bonds.

  - Deduction allowable with respect to income attributable to domestic production activities (IRC Section 199) in Puerto Rico.

  - Basis adjustment to stock of an S corporation making charitable contributions of property.

  - Indian employment credit (up to $4,000 per employee).

  - Accelerated depreciation for business property on Indian reservation.

- Tax credit for certain expenditures for maintaining railroad tracks.

- Seven-year recovery period for certain motorsports racetrack property.

- Work Opportunity Tax Credit (WOTC — $2,400 per employee) hiring period for Hurricane Katrina employees extended through August 28, 2009.

- New Markets Tax Credits.

- Increased rehabilitation credit for structures in the Gulf Opportunity Zone.

- Enhanced charitable deduction for qualified computer contributions.

- Tax incentives for investments in the District of Columbia.

- Enhanced charitable deduction for food inventory.

- Enhanced charitable deduction for contributions of book inventory to schools.

- Special expensing rules for certain film and television productions.

- Exception under Subpart F for active financing income.

New Markets Credits

New Markets Tax Credits of up to 39 percent of the amounts invested in certain geographic regions are available for “qualified equity investments” in a qualified community development entity (CDE).

The credit is earned on the taxpayer’s qualified investments over a seven-year period as follows: five percent per year for the first three years (15%) and six percent per year for years four through seven (24%).

“Qualified equity investments” generally include any equity investment in a CDE for which the CDE has received an allocation from IRS if, among other requirements, the CDE uses substantially all of the cash from the investment to make qualified low-income community investments.

The 2008 Extenders Act extends the New Markets Tax Credit for one year. Therefore, the calendar 2009 nationwide investment limit will remain at $3.5 billion of qualified equity investments.

Midwest Flood Relief

The 2008 Extenders Act includes a number of temporary tax relief provisions relating to the Midwestern disaster areas designated as federal “disaster areas” after May 20, 2008 and before August 1, 2008. The Midwestern disaster area includes portions of the following states:

Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin.

The temporary relief provisions include a large number of business and personal benefits, similar to the Gulf Opportunity Zone programs:

- WOTC hiring credits for employers hiring flood victims.
- Five-year (vs. two-year) net operating loss carryback availability.
- Election to currently deduct up to 50 percent of the demolition and debris-removal costs that would otherwise be capitalized.
- Other liberalization of expensing provisions.
- Temporary removal of charitable contribution and personal casualty loss limitations (generally 10% of AGI (adjusted gross income))
- Credits for employers and other providers of employee/victim housing and other benefits after the disaster.
- Tax return filing and payment relief for flood victims.

View more information on Midwest flood relief benefits here.

Energy Efficiency Provisions

The Rescue Bill amends the Internal Revenue Code of 1986 by extending various energy production and conservation provisions that will soon be expiring. The following is a synopsis of the various updated tax incentives.

Production Tax Credit

The renewable energy production tax credit — approximately 1.9 cent per-kilowatt hour credit indexed for inflation — has been extended for two more years. The credit for wind and refined coal is extended until December 31, 2009 and other fuel source credits have also been extended until December 31, 2010.

Energy Investment Tax Credit

The 30 percent investment tax credit for solar energy and fuel cell energy property has been extended, as well as the 10 percent credit for micro-turbine property. Combined heat and power systems and geothermal heat pumps are also included as part of the 10 percent investment credit. These credits have been extended until 2016. The credit limit is increased from $500 per half kilowatt to $1,500 per half kilowatt for qualified fuel cell property and can be used to offset alternative minimum tax (AMT).

Carbon Capture and Sequestration

Approximately $1.5 billion in tax credits will be provided to advanced coal electricity projects and coal gasification projects in order to promote reductions in CO_2 emission. Through an application process, taxpayers must be able to demonstrate that their advanced coal electricity projects can capture and retain at least 65 percent of CO_2 discharge and at least 75 percent for coal gasification projects. Taxpayers who receive these credits must meet the minimum levels of CO_2.

Bio-fuel Tax Credits

Taxpayers will be given an extension of the $1 per gallon biodiesel and biomass production credit until the 2009 tax year. The credit will be available for biodiesels created from biomass and eliminates many of the strict processing requirements of the previous law. These incentives will not apply to biodiesels that are imported then sold for export.

Heavy Vehicle Exemptions

In order to conserve energy in our transportation system, the new provision will exempt taxpayers from heavy vehicle tax for costs of idling reduction units, such as auxiliary power units (APUs).

Plug-in Electric Drive Vehicle Credit

For tax years beginning after 2008, consumers can collect a tax credit of $2,500 to $7,500 for the purchase of a light-duty plug-in electric car or light truck, depending on the capacity of the battery. The credit may be used to offset AMT.

Commuting Exemptions

An interesting provision added to IRC Section 132(f) now allows a bicycle commuter's exemption. This update allows employees to receive a tax-free benefit in return for their eco-friendly, carbon-saving, efforts to commute to work. One downside is that the benefit is limited to only $20 per month ($240/year) per employee.

Energy-efficient Buildings Deduction

The new law extends the efficient commercial buildings deduction until December 31, 2013. Under the current law, taxpayers are allowed a deduction of the costs of installing energy efficient systems (i.e. heating, cooling, gas and electric systems) in commercial buildings. The allowable deduction is up to $1.80 per square foot for buildings that achieves a 50 percent energy savings objective.

Marginal Oil and Gas Wells Deletion Suspended

The taxable income limit for purpose of depletion marginal oil and gas wells will continue to be suspended until 2009.

Accelerated Depreciation Incentives

The new law reduces the cost recovery period of smart meters and smart-grid systems from 20 years to 10 years, unless the property qualifies under a lesser recovery period. In addition, consumers can claim accelerated depreciation for purchases of equipment used to collect, distribute or recycle various merchandise.

Conclusion

With all the troubling economic news, these tax breaks should be applauded as a big step in helping businesses on the road to recovery.

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