

2012 American Taxpayer Relief Act: A Focus on Business

Congress passed the American Taxpayer Relief Act (ATRA) to avert the tax side of the “Fiscal Cliff” and bring some certainty to the Tax Code. In our May Newsletter, we focused on the ATRA as it applies to investments. This month, we will focus on the many popular but temporary tax extenders relating to businesses. Among them is Code Sec. 179 small business expensing, bonus depreciation, the research tax credit, and the Work Opportunity Tax Credit.

BUSINESS PROVISIONS

Code Sec. 179 Small Business Expensing

The ATRA extends through 2013 enhanced Code Sec. 179 small business expensing. The Code Sec. 179 dollar limit for tax years 2012 and 2013 is \$500,000 with a \$2 million investment limit. The rule allowing off the shelf computer software is also extended. Without the ATRA, the Code Sec. 179 dollar limit for tax years beginning in 2012 would have been \$125,000 (subject to inflation adjustment) with a \$500,000 investment limit (again, subject to inflation adjustment). In tax years after 2012, the dollar limit would have reverted to \$25,000 with a \$200,000 investment limit. This significant decrease in the value of the incentive has now been postponed to tax years after 2013.

Bonus Depreciation

The ATRA extends 50 percent bonus depreciation through 2013. Some transportation and longer period production property is eligible for 50 percent bonus depreciation through 2014. Bonus depreciation has been used as an economic stimulus in many tax bills in recent years. One hundred percent bonus depreciation generally expired at the end of 2011 (with certain transportation and longer period production property eligible for 100 percent bonus depreciation through 2012).

Bonus depreciation also relates to the dollar limitations on the depreciation deduction for the year in which a taxpayer places a passenger automobile in service within a business, and for each succeeding year. If bonus depreciation had not been extended, 2012 would have been the final year in which substantial first-year writeoffs for the purchase of a business automobile may be available.

To be eligible for bonus depreciation, qualified property must be depreciable under the Modified Accelerated Cost Recovery System (MACRS) and have a recovery period of 20 years or less. These requirements encompass a wide-variety of assets. The property must be new and placed in service before January 1, 2014 (January 1, 2015 for certain longer production period property and certain transportation property). Subject to the investment limitations, Code Sec. 179

expensing remains a viable alternative, especially for small businesses. Property qualifying under Code Sec. 179 expensing may be used or new, in contrast to bonus depreciation's "first-use" requirement.

Research Tax Credit

The ATRA extends through 2013 the incremental research tax credit, which expired after 2011. Commonly called the research or research and development credit, the incremental research credit may be claimed for increases in business-related qualified research expenditures and for increases in payments to universities and other qualified organizations for basic research. The credit applies to the excess of qualified research expenditures for the tax year over the average annual qualified research expenditures measured over the four preceding years.

Work Opportunity Tax Credit

The ATRA extends through 2013 the Work Opportunity Tax Credit (WOTC), which rewards employers that hire individuals from targeted groups with a tax credit. Under the revived WOTC, employers hiring an individual within a targeted group (generally, otherwise hard-to-employ workers) are eligible for a credit generally equal to 40 percent of first-year wages up to \$6,000. The WOTC is part of the general business credit.

The Vow to Hire Heroes Act of 2011 (Heroes Act) extended the WOTC for unemployed veterans and unemployed veterans with service connected disabilities through 2012. The WOTC for qualified veterans can be as high as \$9,600. The Heroes Act did not extend the non-veteran WOTC provisions. The ATRA extends the WOTC for qualified veterans as well as for those within prior targeted groups.

Employer-Provided Child-Care Facilities and Services

The income tax credit for qualified expenses incurred by an employer in providing child care for employees has been made permanent for tax years beginning after December 31, 2012. The amount of the credit for a given tax year is the sum of 25 percent of the qualified child care expenditures and 10 percent of the qualified child care resource and referral expenditures incurred by the taxpayer for the tax year. The maximum amount of the credit allowable in any given tax year is \$150,000.

Qualified Leasehold/Retail Improvements, Restaurant Property

The ATRA extends through 2013 the 15-year recovery period for qualified leasehold improvements, qualified retail improvements and qualified restaurant property.

The ATRA has a significant impact on all taxpayers. If you have any questions about the new law or how it affects you or your business, please call our office at 775-882-3201 for an appointment. We will be happy to assist you.

Sincerely yours,

Freeman & Williams, LLP