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December 17, 2014

Congress Passes Tax Extender Package & ABLE Legislation for the Disabled

Late Tuesday, December 16, the Senate passed the tax package, H.R. 5771. This legislation includes the "Tax Increase Prevention Act of 2014 (TIPA)," which extends over 50 currently expired "extender" provisions through 2014. This tax package also includes H.R. 647, the "Achieving a Better Life Experience (ABLE) Act of 2014," which establishes a new type of tax-advantaged savings program for individuals with disabilities and makes a number of other non-extender tax changes.

Highlights of the extender bill include the Research and Development (R&D) Credit, first-year bonus depreciation and the increased Section 179 expensing limits.

It is important to note that the tax extender provisions apply retroactively to January 1, 2014 but do not extend into 2015. Earlier proposals to permanently extend some expired provisions, or to extend all provisions two years, through 2015, were not adopted.

This tax alert lists many of the tax breaks retroactively extended by the Tax Increase Prevention Act of 2014 for individuals, and businesses, as well as depreciation and energy-related provisions.

Business Provisions

- ***Research Credit*** - The R&D Credit has been extended for one year to apply to amounts paid or accrued before January 1, 2015.
- ***Reduction in S Corp Recognition Period for Built-In Gains Tax*** - TIPA provides that for determining the net recognized built-in gain for an S corporation that was formerly a C corporation for tax years beginning in 2014, the recognition period is a 5-year period instead of a 10-year period.
- ***Exclusion of 100 Percent of Gain on Certain Small Business Stock*** - A taxpayer may exclude all of the gain on the disposition of qualified small business stock acquired after September 27, 2010 and before January 1, 2015. None of the excluded gain is subject to the alternative minimum tax.
- ***Lower Shareholder Basis Adjustments for Charitable Contributions by S Corporations*** - The amount of a shareholder's basis reduction in S stock by reason of a charitable contribution is equal to his share of the adjusted basis of the contributed property, instead of the fair market value, for contributions made through December 31, 2014.
- ***New Markets Tax Credit*** - TIPA retroactively extends the new markets tax credit for one year through 2014. It provides up to $3.5 billion in qualified equity investments for the 2014 calendar year. The carryover period for unused new markets tax credits is also extended for one year through 2019.
- ***Enhanced Deduction for Food Inventory Extended*** - A taxpayer engaged in a trade or business is eligible to claim an enhanced deduction for donations of food inventory through December 31, 2014.

The following business provisions were among the many provisions that were also extended for one year:

- ***Work Opportunity Tax Credit***
- ***Empowerment Zone Tax Breaks Extended***
- ***Differential Wage Payment Credit for Employers***

- ***Subpart F Exception for Active Financing Income***

- ***Special Rule for Payments to a Charity From a Controlled Entity Extended***

Depreciation Provisions

Significant depreciation provisions were extended to cover property acquired and placed in service during 2014, including:

- ***50 Percent Bonus Depreciation*** - This applies to new property placed in service in 2014.

- ***Higher Section 179 Expensing Amounts*** - TIPA retroactively extends for one year the increased $500,000 maximum expensing amount.

- ***15-Year Writeoff for Qualified Leasehold and Retail Improvements and Restaurant Property***

- ***Expensing Election for Costs of Film and TV Production***

- ***Passenger Automobile First-year Limit Increase of $8,000***

Individual Provisions

- ***Nontaxable IRA Transfers to Eligible Charities*** - Taxpayers who are age 70 1/2 or older can make tax-free distributions to a charity from an Individual Retirement Account (IRA) of up to $100,000 per year.

- ***Exclusion for Discharged Home Mortgage Debt Extended*** - Discharge of indebtedness income from qualified principal residence debt, up to a $2 million limit ($1 million for married individuals filing separately) is excluded from gross income.

- ***State and Local Sales Tax Deduction*** - Taxpayers who itemize deductions may elect to deduct state and local general sales and use taxes instead of state and local income taxes.

- ***Liberalized Rules for Qualified Conservation Contributions*** - The tax benefits of qualified conservation contributions (i.e., contributions of appreciated real property for conservation purposes) have been extended for 2014.

The following individual provisions were also extended for one year to include tax year 2014:

- ***Above-the-Line Deduction for Educator Expenses Extended***

- ***Increase in Excludible Employer-Provided Mass Transit and Parking Benefits***

- ***Mortgage Insurance Premiums as Deductible Qualified Residence Interest***

- ***Above-the-Line Deduction for Higher Education Expenses***

Energy Provisions

The following energy-related provisions were extended for one year to tax years beginning before January 1, 2015:

- ***Energy Efficient Commercial Buildings Deduction*** - A deduction is allowed in an amount equal to the cost of an "energy efficient commercial building property" placed in service during the tax year.

- ***Nonbusiness Energy Property Credit*** - For qualified energy property placed in service before 2014, a taxpayer may claim a credit up to a $500 lifetime limit.

New Tax-Advantaged ABLE Accounts

In addition to the tax extenders listed above, Congress also passed the Achieving a Better Life Experience (ABLE) Act of 2014.

For tax years beginning after December 31, 2014, TIPA allows states to establish tax-exempt ABLE accounts to assist persons with disabilities in building an account to pay for qualified disability expenses. Similar to a QTP, a tax exemption would be allowed for an ABLE program as amounts in an ABLE account would accumulate on a tax-exempt (or, in some cases, tax-deferred) basis. &

Like many tax matters, these rules are complex and we have only provided a brief overview of the issues. For more information, please contact your Green Hasson Janks advisor for further details at 310.873.1600.

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