Baker Tilly Tax Alert
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The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is signed into law

On Dec. 17, 2010 President Obama signed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act). While it initially appeared that the House would make some revisions to the legislation, particularly to the estate tax, in the end the Act was passed without changes from the Senate bill.

As you may know by now, the Act extends the 2010 income tax rate structure for two years, with maximum rates of 35 percent on ordinary income and 15 percent on qualified dividends and long-term capital gains. In addition, the Act has many other provisions that could impact your business and personal income tax situation. Below are the highlights of significant provisions we think will be of particular interest to you. For a more detailed discussion of the legislation, please refer to our Tax Alert from Dec. 15, available here.

- **Bonus depreciation** – In one of the most expansive benefits for businesses, the Act increases bonus depreciation to **100 percent** for investments in qualified business property acquired and placed in service after Sept. 8, 2010, and before Jan. 1, 2012. The Act also extends 50 percent bonus depreciation for qualified property placed in service from Jan. 1, 2012 through Dec. 31, 2012. Unlike section 179 expensing, bonus depreciation is not limited to smaller businesses or capped at a certain dollar level. However, it does not include property used outside of the US or tax-exempt use or tax-exempt financed property.

  Caution: *Keep in mind that many, if not most, states are likely to opt out of this provision for state income tax purposes.*

- **Research credit** – The Act reinstates the research credit through 2011 (the credit expired at the end of 2009 under current law). Under section 41, taxpayers can claim a credit equal to 20 percent of the amount by which their qualified research expenditures exceed a base amount.
- **AMT patch** – The Act includes a two-year AMT patch. The exemption amounts for 2010 will be $47,450 (individuals) and $72,450 (married filing jointly); and for 2011, $48,450 (individuals) and $74,450 (married filing jointly).
- **Payroll tax holiday – For 2011 only**, the Act provides for a 2 percent payroll tax holiday. This means that employees will pay 4.2 percent on wages and self-employed individuals will pay 10.4 percent on self-employment income. This provision does not apply to the employer portion of the payroll tax, but it does apply to all income levels.
- **15-year straight-line recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements** – After 2011, these types of assets generally will be depreciated over 39 years.
- **Increase of gift tax exemption** – The lifetime gift tax exemption will be unified with the estate tax exemption at $5 million for 2011 and 2012. This means that over the next two years, each taxpayer can gift up to $5 million in addition to the annual gift exclusion of $13,000 before incurring a gift tax. If you have utilized the prior limit of $1 million, you will be able to transfer an additional $4 million.
- **Generation-skipping transfer (GST) tax exemption** – Gifts made directly to grandchildren or further removed lineal descendants in 2010 will escape GST tax (technically, the gifts are subject to the tax but at a zero percent rate).
- **New markets tax credit** – This credit is extended through 2011, and the carryover period for unused credits is extended through 2016.

Time is short to adjust your year-end planning to account for these changes, and the impact will vary depending on your specific tax situation.

For more information or any questions you might have on the Act, we encourage you to contact your Baker Tilly tax advisor or send an e-mail to tax@bakertilly.com.