PUBLICATION

Recent Tax Extenders and Modification Package Signed into Law

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On December 18, 2015, President Obama signed into law the "Protecting Americans from Tax Hikes Act of 2015" (the Act). The Act extends a number of tax provisions that expired on December 31, 2014 and makes some of the extensions permanent. The Act is voluminous and contains many specialized tax provisions. This alert highlights some of the important provisions that may have an impact on 2015 tax returns.

Extension of Bonus Depreciation. The Act extends bonus depreciation through the year 2019. Internal Revenue Code Section 168(k), as amended, will provide a depreciation deduction of 50 percent for the first year any "qualified improvement property" is placed in service. The Act phases down the percentage to 40 percent and 30 percent for property placed in service in 2018 and 2019, respectively. The Act also will extend the election to accelerate unused AMT credits for taxpayers who are unable to claim bonus depreciation.

Permanent Extension and Modification of Deduction for Depreciable Business Assets. The Act permanently extends the definition of "Section 179 property" (that is, certain property the costs of which are allowed to be deducted as an expense) to include computer software and certain qualified real property. The Act also permanently extends the deduction limitation under Code Section 179 to $500,000 and the phase-out threshold to $2,000,000. Further, the Act modifies the definition of "Section 179 property" to include air conditioning and heating units, and eliminates the expense limitation of $250,000 for qualified real property.

Permanent Extension of the R&D Tax Credit. The Act permanently extends the Research & Development Tax Credit provided for in Code Section 41 (the R&D Tax Credit). The R&D Tax Credit provides a credit against federal income tax for businesses that incur certain research and development costs. In addition to making the R&D Tax Credit permanent, the Act provides two special R&D Tax Credit benefits for certain small and start-up businesses. "Eligible small businesses" will be allowed to apply the R&D Tax Credit against their alternative minimum tax liability. Additionally, certain small start-up businesses will be allowed to utilize the R&D Tax Credit against their federal payroll (FICA) tax liability.

Permanent Extension of Tax-Free Charitable Distributions from IRAs. The Act permanently extends the provision under Code Section 408 allowing certain individuals to make tax-free charitable distributions from their Individual Retirement Accounts (IRAs). As a general rule, distributions from an IRA constitute ordinary income to the withdrawing individual. However, under the Act, individuals 70 1/2 and older may make tax-free distributions from their IRAs of up to $100,000 each year for charitable purposes.

Extension of New Markets Tax Credit. The Act extends the Code Section 45D New Markets Tax Credit through the year 2019. The New Markets Tax Credit provides individuals and corporate taxpayers with a credit against federal income tax for making qualifying investments in certain economically distressed areas. The Act authorizes $3.5 billion of New Markets Tax Credit for each year through 2019. The Act also provides that unused credits may be carried over to subsequent taxable years through 2024.

The Act contains many other important provisions pertaining to individuals, S corporations, REITs and retirement accounts, among others. This alert addresses some provisions that taxpayers and advisors have been anticipating and which potentially impact 2015 income tax returns. There may be many other provisions of the Act that may impact you, your business, or your organization's tax return.

Please remember that advice and counsel regarding your particular tax-related issues, including the potential impact of the developments referenced above on you, your business or your organization, are dependent upon your specific facts and circumstances. For more information about how these issues may affect your business or related matters, contact the authors of this alert, Allen Blow and Adam Province, or any members of the Firm's Tax Group.