

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
<b>Providing Access to Capital</b>		
Temporary exclusion of 100% of gain on certain small business stock	Individuals generally may exclude 50% of the gain from the sale of certain small business stock acquired at original issue and held for at least five years. The amount of gain eligible for the exclusion by an individual with respect to any corporation is the greater of (1) ten times the taxpayer's basis in the stock or (2) \$10 million. To qualify as a small business, when the stock is issued, the gross assets of the corporation may not exceed \$50 million. The corporation also must meet certain active trade or business requirements.	<p>The percentage exclusion for qualified small business stock acquired after February 17, 2009, and before January 1, 2011, is increased to 75%.</p> <p>Under the provision, the percentage exclusion for qualified small business stock acquired during 2010 is increased to 100%. No regular tax or alternative minimum tax is imposed on the sale of this stock held at least five years.</p> <p>Effective for stock issued after September 27, 2010, and before January 1, 2011.</p>
Five-year carry back of general business credit of eligible small business	Under current law, a business' unused general business credit generally may be carried back to offset taxes paid in the previous year, and the remaining amount may be carried forward for 20 years to offset future tax liabilities.	<p>This bill extends the one year carry back for general business credits to five years for certain small businesses.</p> <p>Effective for credits determined in the taxpayer's first taxable year beginning after December 31, 2009.</p>
General business credit of eligible small business not subject to alternative minimum tax	Under the Alternative Minimum Tax (AMT), taxpayers may generally only claim allowable general business credits against their regular tax liability, and only to the extent that their regular tax liability exceeds their AMT liability. A few credits may be used to offset AMT liability, such as the credit for small business employee health insurance expense.	<p>Any eligible small business credit may offset both regular and AMT liability. This applies to general business credits for those sole proprietorships, partnerships and non-publicly traded corporations with \$50 million or less in average annual gross receipts for the prior three years.</p> <p>Effective for credits determined in a taxpayer's first taxable year beginning after December 31, 2009.</p>
Temporary reduction in recognition period for S corporation built-in gains	Generally, a C corporation converting to an S corporation must hold on to any	This bill temporarily shortens the holding period of assets subject to the built-in gains tax to five

The Small Business Jobs and Credit Act of 2010		
Enacted into law 09/27/2010		
Provision	Prior Rules	New Rules
tax	appreciated assets for 10 years (the recognition period) following its conversion or face a business-level tax imposed on the built-in gain at the highest corporate rate of 35%. This holding period is reduced where the 7th taxable year in the holding period preceded the taxable year beginning in 2009 or 2010.	years. For taxable years beginning in 2011, the provision provides that for purposes of computing the built-in gains tax, the "recognition period" is the five-year period beginning with the first day of the first taxable year for which the corporation was an S corporation.  Effective for taxable years beginning after December 31, 2010.
Increase Small Business Administration (SBA) Loan Limits	SBA loans are limited in value and borrower fees apply.	This provision increases 7(a) <sup>1</sup> loan limits from \$2 million to \$5 million, 504 loans from \$1.5 million to \$5.5 million, and microloans from \$35,000 to \$50,000. It also increases the government guarantee on 7(a) loan limits, while providing the elimination of borrower fees on 7(a) and 504 loans <sup>2</sup> through December 31, 2010. It increases the 7(a) Express Loans from \$300,000 to \$1 million to increase working capital to small businesses. The package also includes Intermediary Lending Pilot program, which allows the SBA to make direct loans to eligible nonprofit lending intermediaries, in turn allowing them to

<sup>1</sup> The 7(a) Loan Program is SBA's primary program to help start-up and existing small businesses obtain financing when they might not be eligible for business loans through normal lending channels. For more information, see [www.sba.gov/financialassistance/borrowers/guaranteed/7alp/index.html](http://www.sba.gov/financialassistance/borrowers/guaranteed/7alp/index.html)

<sup>2</sup> The 504 loan program is a long-term financing tool for economic development within a community. The 504 Program provides small businesses requiring "brick and mortar" financing with long-term, fixed-rate financing to acquire major fixed assets for expansion or modernization. For more information, see [www.sba.gov/financialassistance/borrowers/guaranteed/CDC504lp/index.html](http://www.sba.gov/financialassistance/borrowers/guaranteed/CDC504lp/index.html)

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
		make loans to new or growing small businesses.
Extend Elimination of SBA Loan Fees	The American Recovery and Reinvestment Act temporarily eliminated the fees normally charged for SBA loans, and provided government guarantees on SBA loans.	This provision extends the American Recovery and Reinvestment Act small business lending program that eliminates the fees normally charged for SBA loans and increases the government guarantees on loans from 75% to 90%.
State Small Business Credit Initiative	N/A	The law provides \$1.5 billion in grants to States to support small business lending programs. States will apply for the funds to be used for approved programs that leverage private lenders to extend greater credit to small businesses and manufacturers.
\$30 Billion Small Business Lending Fund	N/A	The law creates the Small Business Lending Fund to provide Treasury with the ability to purchase preferred stock and other debt instruments from eligible financial institutions with less than \$10 billion in total assets. Eligible institutions include insured depositories, bank and savings and loan holding companies, and certain community development loan funds. Eligible institutions with less than \$1 billion in total assets can apply to receive investments of up to 5% of their risk-weighted assets. Eligible institutions between \$1 billion and \$10 billion in total assets can receive investments of up to 3% of risk-weighted assets.
<b>Encouraging Investment</b>		
Increase and expand expensing of certain depreciable business assets	Under current law, taxpayers may elect to write-off the costs of certain tangible personal property that is purchased for use in the active conduct of a trade or business in the year of acquisition in lieu of recovering these costs over time through depreciation. For the taxable year	This bill increases the thresholds to \$500,000 and \$2,000,000 for the taxable years beginning in 2010 and 2011. Within those thresholds, this bill would allow taxpayers to expense up to \$250,000 of the cost of qualified leasehold improvement property, qualified restaurant property, and

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
	beginning in 2010, taxpayers may write-off up to \$250,000 of these capital expenditures subject to a phase-out once these capital expenditures exceed \$800,000. After 2010, the thresholds revert to \$25,000 and \$200,000, respectively.	qualified retail improvement property.  Effective for taxable years beginning after December 31, 2009.
Extend the additional first-year depreciation allowance	Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Congress temporarily allowed businesses to recover the costs of certain capital expenditures made in 2008 and 2009 more quickly than under ordinary depreciation schedules by permitting those businesses to immediately write-off 50% of the cost of depreciable property placed in service in those years.	This bill extends the additional, first-year, 50% depreciation for qualifying property purchased and placed in service in 2010.  The provision applies to property placed in service in taxable years ending after December 31, 2009.
Disregard bonus depreciation in computing percentage completion	In general, in the case of a long-term contract, the taxable income from the contract is determined under the percentage-of-completion method. Under such method, the percentage completion is determined by comparing costs allocated to the contract and incurred before the end of the taxable year with the estimated total contract costs.	This provision decouples bonus depreciation from allocation of contract costs under the percentage-of-completion method for assets with a depreciable life of seven years or less in order to allow contractors that do not complete contracts within the same year in which they are entered into to benefit from bonus depreciation.  Effective for property placed in service after December 31, 2009.
<b>Promoting Entrepreneurship</b>		
Increase amount allowed as deduction for start-up expenditures	Under current law, taxpayers may deduct up to \$5,000 in trade or business start-up expenditures. The amount that a business may deduct is reduced by the amount by which start-up expenditures exceed	For the taxable year beginning in 2010, this bill temporarily increases the amount of start-up expenditures that may be deducted to \$10,000 subject to a \$60,000 phase-out threshold.

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
	\$50,000.	Effective for taxable years beginning after December 31, 2009
Small Business Export Promotion	The Office of the United States Trade Representative (USTR) plays an important role in promoting U.S. exports, and recently increased its focus on small business export promotion in particular. Funding is depleted, however.	This law will help ensure that USTR's trade policy addresses the challenges facing smaller U.S. exporters and promotes global export opportunities for them. The bill authorizes funds for USTR's market access and trade enforcement activities targeted at helping small business increase market access and ensure a level playing field on which to sell their U.S. made goods.
Limitation on penalty for failure to disclose certain information	A taxpayer is required to disclose certain information with respect to each "reportable transaction" in which the taxpayer participates. A reportable transaction is defined as one that has the potential for tax avoidance or evasion. There are five categories of reportable transactions: listed transactions, confidential transactions, transactions with contractual protection, certain loss transactions and transactions of interest. The amount of the penalty due for each taxpayer's failure to disclose varies depending upon whether or not the transaction is a listed transaction, and whether the relevant taxpayer is an individual. For listed transactions, the maximum penalty is \$100,000 for natural persons and \$200,000 for all other persons. For reportable transactions other than listed transactions, the maximum penalty is \$10,000 for natural persons and \$50,000 for all other persons.	The law changes the penalty for failing to disclose a reportable transaction proportionate to the underlying tax savings. The penalty for failure to disclose reportable transactions to the IRS would be set at 75% of the tax benefit received. Reportable transactions are defined as investments in transactions that the IRS has identified as listed tax shelters or that have characteristics of tax shelters, including large losses or confidentiality agreements. The minimum penalty under this bill is \$10,000 for corporations and \$5,000 for individuals and the maximum penalty is \$200,000 for corporations and \$100,000 for individuals. The bill also requires the IRS to provide an annual report to the Senate Finance Committee and to the House Ways and Means Committee giving an account of certain tax-shelter related penalties asserted during the year.  The provision applies to all penalties assessed under section 6707A after December 31, 2006.

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
<b>Promoting Small Business Fairness</b>		
Temporary deduction for health insurance costs in computing self-employment income	Under current law, business owners are not permitted to deduct the cost of health insurance for themselves and their family members (i.e., spouse, dependents and children under age 27) for purposes of calculating self-employment tax.	This provision allows business owners to deduct the cost of health insurance incurred in 2010 for themselves and their family members in the calculation of their 2010 self-employment tax.  The provision only applies for the taxpayer's first taxable year beginning after December 31, 2009.
Remove cellular phones and similar devices from the definition of listed property	Property used in carrying on a trade or business is subject to the general rules for deducting ordinary and necessary expenses. Under these rules, a taxpayer may properly claim depreciation deductions under the applicable cost recovery rules for only the portion of the cost of the property that is attributable to use in a trade or business. For "listed property," which includes cells phones, no deduction is allowed unless the taxpayer adequately substantiates the expense and business usage of the property.	The provision removes cell phones from the definition of listed property. Thus, under the provision, the heightened substantiation requirements and special depreciation rules that apply to listed property do not apply to cell phones.  Effective for taxable years ending after December 31, 2009.
<b>Promoting Retirement Preparation</b>		
Allow Roth contribution option in governmental 457(b) plans	401(k) plans and 403(b) plans are permitted to have qualified Roth contribution programs under which participants may elect to make after-tax contributions to "designated Roth accounts" and, if certain conditions are met, to exclude from gross income distributions from these accounts.	Beginning January 1, 2011, governmental 457(b) plans may also include a Roth contribution option.
Allow in-plan conversion to Roth	Participants in 401(k) and 403(b) plans	The bill allows 401(k), 403(b), and governmental

<b>The Small Business Jobs and Credit Act of 2010</b>		
<b>Enacted into law 09/27/2010</b>		
<b>Provision</b>	<b>Prior Rules</b>	<b>New Rules</b>
accounts	have no option to convert nonRoth assets within their plans to Roth accounts within their plans. Any conversions must involve an external Roth IRA.	457(b) plans to permit participants to roll their nonRoth account balances into a Roth account with the plan. The amount of the rollover would be includible in taxable income except to the extent it is the return of after-tax contributions. If the rollover is made in 2010, the participant can elect to half of the taxable conversion amount in income in 2011 and half in 2012. Plans would be able to allow these rollovers immediately upon enactment.  Effective for distributions made after the date of enactment.
Permit partial annuitization of a nonqualified annuity contract (i.e., an annuity contract held outside of a tax-qualified retirement plan or IRA)	In general, earnings and gains on a deferred annuity contract are not subject to tax during the deferral period in the hands of the holder of the contract. When payout commences under a deferred annuity contract, the tax treatment of amounts distributed depends on whether the amount is received as an annuity (generally, as periodic payments under contract terms) or not.	The provision permits a portion of a nonqualified annuity contract, endowment, or life insurance contract to be annuitized while the balance is not annuitized, provided that the annuitization period is for 10 years or more, or is for the lives of one or more individuals.  Effective for amounts received in taxable years beginning after December 31, 2010.