

## Overview of New Small-business Law

The new Small Business Jobs Act enacted late in 2010 creates numerous tax breaks designed to benefit the business community. The following is a summary of several key provisions in the new law.

**Section 179 deductions:** For tax years beginning in 2010 and 2011, the maximum amount that can be currently deducted under Section 179 is doubled from \$250,000 of qualified property to \$500,000. Furthermore, the phaseout level for reducing the maximum deduction is increased from \$800,000 to \$2 million. The new law also authorizes a maximum deduction of \$250,000 for qualified real estate.

**Bonus depreciation:** The new law retroactively reinstates 50% "bonus" depreciation for qualified property placed in service in 2010. The bonus depreciation deduction, which had expired at the end of 2009, is extended through 2011 for property with a cost recovery period of at least ten years and certain transportation and aircraft property.

**Start-up expenditures:** The new law increases the maximum \$5,000 deduction for qualified start-up expenditures to \$10,000 for tax years beginning in 2010. Also, the phaseout threshold for the maximum amount of start-up expenses is increased from \$50,000 to \$60,000 (see page \_\_\_\_).

**Qualified small-business stock:** The maximum tax exclusion for investments in "qualified small-business stock" (QSBS) is increased to 100% for QSBS acquired from September 28, 2010, through December 31, 2010. The previous 50% exclusion had been temporarily increased to 75% by the 2009 economic stimulus law.

**BIG tax:** The normal recognition period for triggering a built-in gains (BIG) tax on the sale of appreciated assets after converting to S corporation status is ten years. Under the 2009 economic stimulus law, this recognition period was temporarily shortened to seven years for sales in tax years beginning in 2008 and 2009. The recognition period is reduced to five years for gains in tax years beginning in 2011.

**Business credits:** Normally, "general business credits" cannot be used to offset the alternative minimum tax (AMT). For credits arising in tax years beginning in 2010, an eligible small business can claim an AMT offset. Also, these credits can be carried back for up to five years instead of just one.

**Health insurance:** For the first tax year beginning after 2009, a self-employed individual can deduct health insurance costs from the calculation of "self-employment income" for employment tax purposes.

**Cell phones:** Retroactive to tax years beginning after 2009, employees no longer have to meet strict substantiation requirements for cell phones and similar devices. The IRS will make provisions to treat personal use as a tax-free fringe benefit.

Retirement accounts: Beginning September 28, 2010, the new law permits participants in 401(k) and 403(b) plans to roll over funds to a designated Roth account. For rollovers occurring in 2010, taxable income may be split between 2011 and 2012.

Nonqualified annuities: Under the new law, the owner of a nonqualified annuity can create a separate income stream over a period of more than ten years or one or more life expectancies. This change applies to amounts received in tax years beginning after 2010.

Finally, the new law includes several provisions with negative aspects. For instance, taxpayers who receive rental income from real estate and incur expenses of \$600 or more must file information returns for each party, beginning in 2011. Consult a professional tax adviser.