Tax extender legislation passes

Today, December 18, 2015, Congress passed legislation extending a number of expired tax provisions. Taxpayers and tax advisors gain more certainty because of the permanent extension of several provisions and multiple year extension of others. President Obama is expected to sign the legislation. Some of the highlights of this legislation are as follows:

Extension and modification of increased expensing limitations and treatment of certain real property as section 179 property

Under this provision, small business expense limits and phase-out amounts in effect from 2010 through 2014 ($500,000 and $2 million, respectively) are being permanently extended. Expensing for computer software and qualified retail improvement property, restaurant property and leasehold improvement property is also permanently extended.

The provision modifies the expensing limitation by indexing the $500,000 and $2 million limits for inflation beginning in 2016. Heating and air conditioning units are placed in service in tax years after 2015 are eligible for expensing. Lastly, the $250,000 expense limitation on qualifying real property is removed under this provision beginning in 2016.

Extension and modification of bonus depreciation

The provision extends 50 percent bonus depreciation for property placed in service during 2015 - 2017 and phases down with 40 percent in 2018 and 30 percent in 2019. The provision expires after 2019.

Extension and modification of research credit

The provision permanently extends the research and development (R&D) tax credit. Additionally, beginning in 2016, eligible small businesses ($50 million or less in gross receipts) may claim the credit against alternative minimum tax (AMT) liability, and the credit can be utilized by certain small businesses against the employer's payroll tax (i.e. FICA) liability.

Extension of tax-free distributions from individual retirement plans for charitable purposes

The provision permanently extends the ability of individuals who are at least 70 ½ years of age to exclude from gross income qualified charity contributions from their individual retirement accounts (IRAs). The amount excluded may not exceed $100,000 per taxpayer in any tax year.

Extension and modification of work opportunity tax credit

The work opportunity tax credit is extended through 2019. Beginning in 2016, the credit is also modified for employers who hire qualified individuals who have been unemployed for 27 or more weeks and increases the credit to 40 percent of the first $6,000 earned for these long-term unemployed individuals.

Extension of deduction of State and local general sales taxes

This provision permanently extends the option to claim an itemized deduction for state and local general sales taxes in the place of an itemized deduction for state and local income taxes. Taxpayers can deduct the actual amount of sales tax paid in the tax year or deduct an amount approved by the IRS.

Modifications to alternative tax for certain small insurance companies

The provision increases the maximum amount of annual premiums that certain small property and casualty insurance companies can receive and still elect to be exempt from tax on their underwriting income, and instead, will be taxed only on taxable investment income. For calendar years beginning after 2015, the maximum amount is increased from $1.2 million to $2.2 million and indexes it to inflation thereafter.

This provision requires that no more than 20 percent of net written premiums (or if greater, direct written premiums) for a tax year be attributed to any one policyholder. Alternatively, a company would be eligible for the exception if each owner of the insured business or assets has no greater an interest in the insurer than he or she has in the business or assets and each owner should hold no smaller an interest in the business than his or her interest in the insurer. The provision is effective for tax years beginning after 2016.