Tax Alert

Green Hasson & Janks LLP
Business Advisors and CPAs

RELEVANT ALERTS DIRECT TO YOUR INBOX

February 8, 2010

WHAT'S INSIDE

FY 2011 Budget Proposals
Tax Proposals

The President issued his FY 2011 budget proposals on February 1, 2010, accompanied by the Treasury's release of its "General Explanations of the Administration's Fiscal Year 2011 Revenue Proposals" (colloquially referred to as the Green Book). The Green Book outlines the Administration's plan for short-term tax incentives to create jobs, encourage business investment, and deliver tax relief to middle-class families and small businesses. Some of the major tax proposals are highlighted below.

Tax Proposals for Business

- A tax credit of up to $5,000 for new workers added in 2010, plus a reimbursement for payroll taxes on wage increases.
- For 2010, permitting a maximum of $250,000 to be expensed under Code Sec. 179 , with the investment-based phaseout level set at $800,000.
- Extending bonus first-year depreciation to apply to property placed in service in 2010.
- Allotting an additional $5 billion in tax credits for investment in advanced energy manufacturing projects.
- A zero percent capital gains tax on qualified small business stock held for at least five years, effective for stock acquired after February 17, 2009.
- Making permanent the research credit (which under current rules went off the books at the end of 2009).
- Making permanent the Build America Bonds Program.
- Removing company provided cell phones from the listed property category, effective for tax years ending after the enactment date.
- Repealing the lower-of-cost or-market inventory accounting method, effective for tax years beginning after twelve months from the enactment date.
- Repealing the LIFO accounting method for inventories. Those currently using the LIFO method would be required to write up their beginning LIFO inventory to its FIFO value in the first tax year beginning after 2011. However, this one-time increase in gross income would be taken into account ratably over ten years, beginning with the first tax year beginning after 2011.
- Eliminating tax preferences (e.g., expensing of intangible drilling costs, enhanced oil recovery credit, percentage depletion) for oil, gas and coal companies.
- Extending through Dec. 31, 2011 the Subpart F "active financing" and "look-through" exceptions, the exclusion from unrelated business income of certain payments to controlling exempt organizations, the modified recovery period for qualified leasehold improvements and qualified restaurant property, and incentives for empowerment and community renewal zones.
- Making permanent the 0.2% unemployment insurance surtax.
- Subjecting highly leveraged Wall Street firms to a Financial Crisis Responsibility Fee to cover TARP expenses (i.e., the cost of the federal government's financial institution bailout). The Fee would be levied on the liabilities, net of deposits and certain insurance policy reserves, of qualified firms with more than $50 billion in assets. It would remain in place for at least 10 years, or longer if necessary to fully pay back TARP. The Fee would be effective as of July 1, 2010, and would be reported on the annual federal income tax return.
- Requiring a corporation that enters into a forward contract to issue its stock to treat a portion of the payment on the forward issuance as a payment of interest, effective for forward contracts entered into after 2011.
- Requiring dealers in commodities, commodities derivatives dealers, dealers in securities, and dealers in options to treat the income from their day-to-day dealer activities in section 1256 contracts as ordinary in character, not capital, effective for tax years beginning after the enactment date.
- Amending the definition of "control" in Code Sec. 249(b)(2) to incorporate indirect control relationships of the nature described in Code Sec. 1563(a) , effective on the enactment date.
- A ten-year reinstatement of the three Superfund excise taxes, and the corporate environmental income tax, to begin after 2010.

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International Tax proposals

- Taxing in the U.S. excessive profits shifted offshore using transfers of intangibles, thus restricting what is perceived by the Administration to be tax incentives to engage in transfer pricing abuses.
- Delaying the deduction for the costs of overseas investment.
- A package of provisions to reduce the use of offshore accounts and entities.

Tax Proposals for Individuals

- Extending the Making Work Pay Credit for one year (a tax cut of up to $400 per person ($800 per family)).
- Making permanent the American Opportunity Credit for higher education expenses.
- Extending through 2011 the optional deduction for state and local general sales taxes.
- Increasing the Child and Dependent Dare tax credit for families earning up to $113,000 a year.
- Reinstating after 2010 the 36% tax rate for those with taxable income above the following amounts: $250,000 less the standard deduction and two personal exemptions, indexed from 2009, for married taxpayers filing jointly; $200,000 less the standard deduction and one personal exemption, indexed for inflation from 2009, for single filers. Also, the 28% bracket would be expanded so that taxpayers earning less than the $250,000/$200,000 amounts would not see their taxes rise as a result of the increased tax rate brackets.
- Reinstating beginning in 2011 the 39.6% tax rate (it would apply to those with taxable incomes over $373,650 before inflation adjustment).
- Beginning in 2011, a 20% tax rate would apply to long-term capital gains and qualified dividends of married taxpayers filing jointly with income over $250,000 less the standard deduction and two personal exemptions (indexed from 2009) and for single taxpayers with income over $200,000 less the standard deduction and one personal exemption (indexed from 2009). Taxpayers below these income levels would be subject to the rates that currently apply (i.e., 0% or 15% rate) to long capital gains and qualified dividends.
- Beginning in 2011, reinstating for higher income taxpayers the reduction of itemized deductions and the personal exemption phaseout.
- Beginning in 2001, limiting the tax value of all itemized deductions to 28% whenever they would otherwise reduce taxable income in the 36% or 39.6% tax brackets. A similar limitation also would apply under the AMT.
- The 2009 AMT exemption amounts for individuals, as indexed for inflation, would apply for 2010 and future years, and nonrefundable personal credits would offset the AMT as well as regular tax.
- Extending the COBRA premium subsidy to cover workers involuntarily terminated before 2011.

Estate, Gift, and Generation-Skipping Transfer (GTS)

- Estate, gift, and generation-skipping transfer (GST) taxes would be extended at the levels in effect for calendar year 2009 (a top rate of 45% and an exemption amount of $3.5 million).

Retirement Savings

- Simplifying and expanding the Saver's Credit to match 50% of a contribution up to $500 per individual ($1,000 per couple) for families earning up to $65,000 (with smaller credits for those earning up to $85,000). Additionally, the saver's credit would become a refundable credit.
- Creation of a system of automatic workplace IRAs to expand access to tax-favored retirement savings. Employers automatically enrolling their employees in IRAs would receive tax credits of up to $250 a year for two years.
- Doubling the maximum credit for small employers that establish new retirement plans to $1,000 per year for three years.

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Retirement Savings continued

- Proposals to close "Loopholes" include changing the rules that allow those facing estate and gift taxes to undervalue transferred property, denying a tax deduction for punitive damage claims, repealing preferential tax treatment for commodities dealers and day traders, taxing carried (profits) interests as ordinary income.
- Proposals to help reduce the tax gap include requiring information reporting for payments to corporations, requiring electronic filing for more returns, clarifying when employee leasing companies can be held liable for their clients' federal employment taxes, codification of the economic substance doctrine, and clarified standards for classification of workers as employees or independent contractors.

We will update you on changes to the tax provisions as soon as legislation becomes available.

Talk to Us
Please contact your GH&J tax advisors for further details at 310.873.1600.

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