Green Hasson Janks & Food Digest

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A Quick Glance at Tax Savings Ideas

It is that time of the year where discussions are often focused on seeking ways to save money on taxes.

The U.S. currently has the distinction of being the country with the highest corporate income tax rate in the industrialized world. While tax reform and reduction in the corporate tax rate has been a topic of recent discussions, there are currently no proposals in the political system to achieve this. While the food industry is not the direct beneficiary of many tax minimizing provisions, there are important tax incentives that apply to the food industry. These incentives are sometimes overlooked as their application may not be obvious at first glance. However these incentives may yield significant tax savings to the companies and/or their shareholders.

I have asked Farshad Yashar, a tax partner with Green Hasson Janks to present several areas of potential tax savings that we have found to be applicable to the food industry.

Research and Development Tax Incentives
Often branded as the granddaddy of all tax incentives, research and development (R&D) credits provide a dollar for dollar reduction in federal and often state tax liabilities, and it should be considered by all participants in the food industry. Investment in R&D has been an important competitive factor for food industry participants. Companies spend significant time and money on developing new products, as well as improving taste and safety of foods that they sell. Companies that conduct research in order to develop new flavors, provide health benefits, or change appearance or texture may very well qualify for this benefit. Also companies who spend a great deal of resources in prolonging product shelf life or increasing production efficiency through improved processes may be candidates for the R&D credits.

The following are just a few examples of activities that may qualify for R&D credit:

- New product development such as gluten-free products
- New recipe blends to meet nutritional requirements
- New package design to improve product shelf-life
- Developing or improving manufacturing and packaging processes to reduce carbon footprints.

In the last few years, the government has streamlined the calculation of the R&D credit through the introduction of the Alternative Simplified Credit (ASC) as an alternative to the incremental research credit. This has simplified the process of determining the R&D credit for many companies, especially those that have not reported research credits in the past.

Domestic Production Activities Deduction
Originally introduced in the Jobs Creation Act of 2004, the Domestic Production Activities Deduction (DPAD) was a replacement for certain export incentives deemed to be in violation of the

World Trade Organization (WTO). The DPAD which was intended to support domestic manufacturing is an underutilized deduction which is available to food processors but not available to food retailers. The details related to this deduction are complicated, but the benefit may entail a 9% reduction of net income with respect to qualified activities. As an example, a meat processor with $4 million of net income attributable to qualified activities will have a deduction of $360,000 which would amount to tax savings of $125,000.

Charitable Contribution of Food Inventory

This incentive allows an enhanced deduction for qualifying charitable contributions of food inventory. This incentive may increase the value of the charitable deduction by 50%. As an example, under normal rules, charitable deduction of inventory items is limited to the basis of the item of inventory. Therefore, contribution of a product with cost basis of $100 and a value of $200 would result in a charitable deduction of $100. However, if the product was qualifying food inventory, the contribution would result in a $150 charitable contribution.

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Other Incentives

Tax law provides for other incentives such as accelerated depreciation for qualifying restaurant and retail fixed property which can result in significant upfront tax savings. The qualifying restaurant and retail fixed assets acquired in 2012 are allowed a 50% write-off in what is called bonus depreciation. This incentive is set to expire at the end of this year. There are also incentives for private companies which export food products manufactured in the U.S. to be sent off-shore. The tax benefit from this incentive is also set to expire at the end of 2012. &

Special thanks to our guest contributor, Farshad Yashar, tax partner at Green Hasson Janks. Farshad has over 18 years of tax experience, serving many of the firm's food clients. Farshad can be contacted directly at fyashar@greenhassonjanks.com or 310.873.1619.

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