

## TAX ALERT

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**December 18, 2015**

### **Protecting Americans from Tax Hikes Act of 2015 (“PATH”)**

Dear clients, colleagues and friends,

Congress is set to pass a bill containing extensions of many significant tax provisions, and the President is widely expected to sign PATH into law. Over the last several years, Congress had waited until year end or the beginning of the following year to extend many major provisions that had expired. This had often led to confusion and poor planning for taxpayers as they had very little time to plan their tax affairs properly. This year is no different with regard to timing but with a major twist in that **many of the extended provisions will now be made permanent**. Many other provisions **have been extended for a number of years**, reducing uncertainty and enabling more informed tax planning.

Highlights of the extender bill include the Research and Development (R&D) Credit, Bonus Depreciation and the increased Section 179 expensing limits.

**It is important to note that the extender provisions apply retroactively to Jan. 1, 2015 and extend into future years, with many provisions becoming permanent.**

This *Tax Alert* lists many of the key tax breaks retroactively extended by the [Protecting Americans from Tax Hikes Act of 2015](#).

#### **Permanent Provisions – the bill permanently extends the following provisions:**

**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.

**Fifteen-year, straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.**

**Increased expensing limitations and treatment of certain real property as section 179 property.** The provision permanently extends the small-business expensing limitation and phase-out amounts in effect from 2010 to 2014 (\$500,000 and \$2 million, respectively).

**Exclusion of 100 percent of gain on certain small business stock.**

**Reduction in S-corporation recognition period for built-in gains tax.** The provision permanently extends the rule and reduces to five years (rather than ten years) the period for which an S-corporation must hold its assets following conversion from a C-corporation to avoid the tax on built-in gains.

**Special rule for contributions of capital-gain real property made for conservation purposes.** The provision permanently extends the charitable deduction for contributions of real property for conservation purposes.

**Tax-free distributions from individual retirement plans for charitable purposes.** The provision permanently extends the ability of individuals at least 70½ years of age to exclude from gross-income qualified charitable distributions from Individual Retirement Accounts (IRAs). The exclusion may not exceed \$100,000 per taxpayer in any tax year.

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**Extension and modification of charitable deduction for contributions of food inventory.** The provision permanently extends the enhanced deduction for charitable contributions of inventory of “apparently wholesome food” for non-corporate business taxpayers.

### **Provisions Extended through 2019**

**New markets tax credit.** The provision authorizes the allocation of \$3.5 billion of new markets tax credits for each year from 2015 through 2019.

**Bonus depreciation.** The provision extends bonus depreciation for property acquired and placed in service during 2015 through 2019 (with an additional year for certain property with a longer production period). The bonus depreciation percentage is 50 percent for property placed in service during 2015, 2016 and 2017 and phases down, with 40 percent in 2018 and 30 percent in 2019.

### **Provisions Extended through 2016**

**Exclusion from gross income of discharge of qualified principal residence indebtedness.**

**Empowerment zone tax incentives.** Empowerment zones are economically distressed areas, and the tax benefits available include tax-exempt bonds, employment credits, increased expensing and gain exclusion from the sale of certain small-business stock.

**Credit for nonbusiness energy property.**

**Credit for alternative-fuel vehicle refueling property.** The provision extends through 2016 the credit for the installation of non-hydrogen alternative-fuel vehicle refueling property.

**Credit for energy-efficient new homes.** The provision extends through 2016 the tax credit for manufacturers of energy-efficient residential homes. An eligible contractor may claim a tax credit of \$1,000 or \$2,000 for the construction or manufacture of a new energy-efficient home that meets qualifying criteria.

**Excise tax credits relating to alternative fuels.** The provision extends through 2016 the 50-cents-per-gallon alternative-fuel tax credit and alternative-fuel mixture tax credit.

***Please contact your Green Hasson Janks tax advisor at 310.873.1600 for additional information or to determine whether this development relates to your business.***

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