



## **Business Tax Impact from the New American Recovery and Reinvestment Act of 2009**

On Friday the 13<sup>th</sup>, February, 2009, the House and Senate passed the long-awaited economic stimulus legislation. On February 17<sup>th</sup>, President Obama signed the Economic Stimulus Bill into law.

The new tax law was less beneficial for business than originally anticipated, but it still contains some unique tax benefits for 2009 as well as into the future. Below is a summary of some of the key provisions affecting contractors:

### **Extension of enhanced small business expensing (Section 179).**

As you know, in 2008, a business can write off 100% of the cost of most depreciable tangible property under Code Section 179, up to \$250,000 of equipment (up from \$125,000 in 2007). However, if you acquire more than \$800,000 of equipment in a tax year (\$500,000 in 2007), then the \$250,000 direct write-off is reduced, possibly to zero, depending on how much depreciable property was purchased. The new law extends the 2008 level of direct expensing to 2009 as well.

**Extension of bonus depreciation.** Bonus depreciation rules permit businesses to immediately write off 50% of the cost of most depreciable tangible property, such as machinery and equipment, placed in service in 2008. The new law extends bonus depreciation to tangible business property acquired and placed into service in 2009.

**Extension of ability to use accumulated AMT credits in lieu of bonus depreciation.** The new law extends the provision contained in the Foreclosure Prevention Act of 2008 and allows AMT and loss taxpayers in 2009 to receive 20% of the value of their old AMT credits to the extent such taxpayers invest in assets that qualify for bonus depreciation.

**Expanded loss carryback of net operating losses for small businesses to 5 years.** Previously, net operating losses (NOLs) could be carried back only to the two years before the year of the loss and carried forward to each of the ensuing twenty years. For 2008 returns, the new law extends the maximum NOL carryback period from two years to five years for small businesses with gross receipts of \$15 million or less. Essentially, you get to pick and choose a 2 year, 3 year, 4 year or 5 year carryback. Unfortunately, larger businesses will not be eligible for the extended carryback period, a last minute change agreed to by Congress.

**Deferral of taxable income from the discharge or discounting of indebtedness.** A business that buys back its own debt at a discount may report the taxable forgiveness of debt income over a 10 year period by deferring tax on for the first four or five years and reporting taxable income ratably over the following five tax years) for certain types of business debt repurchased in 2009 or 2010.

**Incentives to hire unemployed veterans and disconnected youth.** Businesses can claim a work opportunity tax credit equal to 40% of the first \$6,000 of wages paid to employees of one of nine targeted groups: Long-term Temporary Assistance to Needy Families (TANF) Recipients, certain other TANF Recipients, Qualified Food Stamp Recipients, Designated Community Residents (of Empowerment Zones, etc.), Qualified Veterans, Summer Youth Employees, Vocational Rehabilitation Referrals, Qualified Ex-felons, and SSI recipients. The new law expands the work opportunity tax credit to include two new targeted groups: (1) unemployed veterans; and (2) disconnected youth. Individuals qualify as unemployed veterans if they were discharged or released from active duty from the Armed Forces during

2008, 2009 or 2010 and received unemployment compensation for more than four weeks during the year before being hired. Individuals qualify as disconnected youths if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

**Qualified small business stock.** The new law increases the exclusion for gain from the sale of certain small business stock held for more than five years from 50% to 75% for stock issued after the enactment date and before 2011.

**S corp holding period.** The new law temporarily reduces the holding period of assets subject to the built-in gains tax (imposed on S corporations that sell assets acquired while a C corporation before the S election became effective) from 10 years to seven years.

Large & Gilbert, P.C.

6849 Peachtree Dunwoody Road, Building A-2, Atlanta, Georgia 30328

Phone: (770) 671-1533, Fax: (770) 671-1347 Email: [info@largeandgilbert.com](mailto:info@largeandgilbert.com)