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IRS News Release

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New Law Offers Special Tax Breaks for Small Business; Act Now and Save, IRS Says

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WASHINGTON — Small Business Week is May 17 to 23, and the Internal Revenue Service urges small businesses to act now and take advantage of tax-saving opportunities included in the new recovery law.

The American Recovery and Reinvestment Act (ARRA), enacted in February, created, extended or expanded a variety of business tax deductions and credits. Because some of these changes—the bonus depreciation and increased section 179 deduction, for example—are only available this year, eligible businesses only have a few months to take action and save on their taxes. Here is a quick rundown of some of the key provisions.

Faster Write-Offs for Certain Capital Expenditures

Many small businesses that invest in new property and equipment will be able to write off most or all of these purchases on their 2009 returns. The new law extends through 2009 the special 50 percent depreciation allowance, also known as bonus depreciation, and increased limits on the section 179 deduction, named for the relevant section of the Internal Revenue Code. Normally, businesses recover these capital investments through annual depreciation deductions spread over several years. Both of these provisions encourage these investments by enabling businesses to write them off more quickly.

The bonus depreciation provision generally enables businesses to deduct half the cost of qualifying property in the year it is placed in service.

The section 179 deduction enables small businesses to deduct up to $250,000 of the cost of machinery, equipment, vehicles, furniture and other qualifying property placed in service during 2009. Without the new law, the limit would have dropped to $133,000. The existing $25,000 limit still applies to sport utility vehicles. A special phase-out provision effectively targets the section 179 deduction to small businesses and generally eliminates it for most larger businesses.

Bonus depreciation and the section 179 deduction are claimed on Form 4562. Further details are in the instructions for this form.

Expanded Net Operating Loss Carryback

Many small businesses that had expenses exceeding their incomes for 2008 can choose to carry those losses back for up to five years, instead of the usual two. For small businesses

that were profitable in the past but lost money in 2008, this could mean a special tax refund. The option is available for a small business that has no more than an average of $15 million in gross receipts over a three-year period.

This option is still available for most eligible taxpayers, but only for a limited time. A corporation that operates on a calendar-year basis, for example, must file a claim by Sept. 15, 2009. For eligible individuals, the deadline is Oct. 15, 2009.

Eligible individuals should file a claim using Form 1045, and corporations should use Form 1139. Details can be found in the instructions for each of these forms, and answers to frequently-asked questions are posted on IRS.gov.

Exclusion of Gain on the Sale of Certain Small Business Stock

The new law provides an extra incentive for individuals who invest in small businesses. Investors in qualified small business stock can exclude 75 percent of the gain upon sale of the stock. This increased exclusion applies only if the qualified small business stock is acquired after Feb. 17, 2009 and before Jan. 1, 2011, and held for more than five years. For previously-acquired stock, the exclusion rate remains at 50 percent in most cases.

Estimated Tax Requirement Modified

Many individual small business taxpayers may be able to defer, until the end of the year, paying a larger part of their 2009 tax obligations. For 2009, eligible individuals can make quarterly estimated tax payments equal to 90 percent of their 2009 tax or 90 percent of their 2008 tax, whichever is less. Individuals qualify if they received more than half of their gross income from their small businesses in 2008 and meet other requirements. For details, see Publication 505.

COBRA Credit

Employers that provide the 65 percent COBRA premium subsidy under ARRA to eligible former employees claim credit for this subsidy on their quarterly or annual employment tax returns. To help avoid imposing an unnecessary cash-flow burden, affected employers can reduce their employment tax deposits by the amount of the credit. For details, see Form 941. Answers to frequently-asked questions are posted on IRS.gov.

Other ARRA business provisions relate to discharges of certain business indebtedness, the holding period for S corporation built-in gains and acceleration of certain business credits for corporations. Details are in Fact Sheet FS-2009-11 included with this release.

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