Agribusiness News

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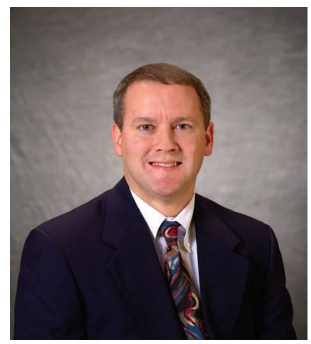
Tax Relief, Unemployment, Insurance Reauthorization, and Job Creation Act of 2010

A summary of the primary individual and business tax provisions of the tax act enacted in December 2010 are as follows:

- **Individual Tax Rates:** The tax act extends the 2010 tax rates that were due to expire as of December 31, 2010 for two additional years through 2012. Qualified capital gains and dividends tax rates are extended for two additional years through 2012. The alternative minimum tax exemption amounts for 2010 and 2011 are increased to prevent middle income taxpayers from being subject to the alternative minimum tax.



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- **Payroll Tax Cut:** The tax act calls for a two-percent reduction in the employee's Social Security tax for 2011. The Social Security tax is 6.2% on earned income up to $106,800. It would be reduced to 4.2% for 2011. Self-employed persons would pay 10.4 percent (down from 12.4 percent) on self-employment income up to $106,800 for 2011.
- **Federal Estate Tax:** The tax act establishes a $5 million exclusion amount per decedent and a 35% tax rate for 2011 & 2012. Estates of decedents dying after December 31, 2009 and before January 1, 2011 have the option to elect to apply (1) the estate tax based on the new 35% top rate and $5 million exemption, with stepped-up basis, or (2) no estate tax with modified carryover basis rules. The increased exclusion amount should benefit farm estates, which have high-value farmland in them.
- **Bonus Depreciation:** The tax act includes 100% bonus depreciation for qualified investments made after September 8, 2010 and before January 1, 2012. 50% bonus depreciation will be available for qualified property placed into service after December 31, 2011 and before January 1, 2013. To qualify, the property must have a depreciable life of 20 years or less. Further, if the new asset is acquired via trade, the 100% bonus depreciation deduction applies both to the boot paid to accomplish the trade, as well as any remaining undepreciated basis in the relinquished asset. For farm producers and landlords, machine sheds and shops, landlord drainage tile and other land improvements, and SUV's and short-box pickups qualify for 100% bonus depreciation.
- **R&D Credit:** The tax act extends the research and development credit for businesses for two years – 2010 and 2011.
- **Work Opportunity Tax Credit:** The work opportunity tax credit was scheduled to expire after August 31, 2011. The tax act extends the credit for individuals who begin employment after August 31, 2011 and before January 1, 2012, but with some modifications. The work opportunity tax credit includes a credit for hiring residents in rural renewable counties. The tax act does not extend the credit past 2010 for unemployed veterans or disconnected youth.

- **Energy Related Tax Extenders:** Various energy-related provisions were extended under the tax act. The biodiesel tax credit is extended through 2010 and 2011. This credit includes the $1.00/gallon production tax credit for biodiesel and biomass-created diesel fuel along with the $.10/gallon producer credit for small agri-biodiesel producers. The ethanol subsidy is extended through 2010 and 2011. That means the tax credit is extended as is the $.54/gallon tariff on imported ethanol and the $.2267 tariff on ETBE. Other energy incentives extended for 2010 and 2011 include the alternative fuel tax credit at $.50 per gallon, the 30 percent investment tax credit for alternative vehicle refueling property, and the tax credit for energy-efficient improvements to existing homes.

- **Other Business Tax Extenders:** Most business tax incentives are extended under the tax act for two years – 2010 and 2011. For businesses, these extenders include the 15 year recovery period for qualified leasehold improvements, restaurant building and improvements and retail improvements.

Accounting for Leases

The Financial Accounting Standards Board and International Accounting Standards Board have been working on a joint project that soon will significantly change the way leases will be accounted for both lessors and lessees. Under the proposed rule, most leases now considered operating leases and expensed as paid by the lessee under the current lease rules would require new accounting. The newly proposed rules would require a lessee to recognize an asset for the lease term and a liability to make the lease payments.

Assets and liabilities recognized by lessees and lessors would be measured on a basis that assumes the longest possible lease term that is more likely than not to occur. Other factors, including uses of expected outcome techniques and changes in facts and circumstances since previous reporting periods, would also be considered in these calculations.

Also under these proposed rules all leases, except for those under 12 months, will fall under these rules. Also, leases already in place when the rule becomes effective will have to follow these rules.

These are proposed rules based on the final exposure draft which was issued in the last half of 2010 and implementation is expected sometime in 2011.

About Bergan Paulsen

At Bergan Paulsen, our mission is to provide timely, quality services that exceed the expectations of our clients. We know that in agribusiness it is as important to be aware of changes in the tax laws as it is changes in the weather.

If you would like more information about this topic, please contact your nearest Bergan Paulsen office:

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