

MANUFACTURING-RELATED TAX PROVISIONS IN ECONOMIC STIMULUS BILL

5-Year Carryback of Net Operating Losses for Small Businesses. Under current law, net operating losses (“NOLs”) may be carried back to the two taxable years before the year that the loss arises (the “NOL carryback period”) and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the bill would extend the maximum NOL carryback period from two years to five years for small businesses with gross receipts of \$15 million or less. *This proposal is estimated to cost \$947 million over 10 years.*

Extension of Bonus Depreciation. Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009. *This proposal is estimated to cost \$5.074 billion over 10 years.*

Extension of Enhanced Small Business Expensing. In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009. This proposal is estimated to cost \$41 million over 10 years.

Small Business Capital Gains. Under current law, Section 1202 provides a fifty percent (50%) exclusion for the gain from the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited to the greater of 10 times the taxpayer’s basis in the stock, or \$10 million gain from stock in that small business corporation. This provision is limited to individual investments and not the investments of a corporation. The non-excluded portion of section 1202 gain is taxed at the lesser of ordinary income rates or 28 percent, instead of the lower capital gains rates for individuals. The provision allows a seventy-five percent (75%) exclusion for individuals on the gain from the sale of certain small business

stock held for more than five years. This change is for stock issued after the date of enactment and before January 1, 2011. *This provision is estimated to cost \$829 million over 10 years.*

Election to Accelerate Recognition of Historic AMT/R&D Credits. Last year, Congress temporarily allowed businesses to accelerate the recognition of a portion of their historic AMT or research and development (R&D) credits in lieu of bonus depreciation. The amount that taxpayers may accelerate is calculated based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation. This amount is capped at the lesser of six percent (6%) of historic AMT and R&D credits or \$30 million. The bill would extend this temporary benefit through 2009. *This proposal is estimated to cost \$805 million over 10 years.*

Incentives to Hire Unemployed Veterans and Disconnected Youth. Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first \$6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during the five-year period prior to hiring and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months. *This proposal is estimated to cost \$231 million over 10 years.*

Temporary Small Business Estimated Tax Payment Relief. The bill reduces the 2009 required estimated tax payments for certain small businesses. *This provision has been estimated to have no revenue effect over 10 years.*

Temporary Reduction of S Corporation Built-In Gains Holding Period from 10 Years to 7 Years. Under current law, if a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The bill would temporarily reduce this holding period from ten years to seven years for sales occurring in 2009 and 2010. *This proposal is estimated to cost \$415 million over 10 years.*

Repeal of Treasury Section 382 Notice. Last year, the Treasury Department issued Notice 2008-83, which liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer's ownership of the company. The bill would repeal this Notice prospectively. *This proposal is estimated to raise \$6.977 billion over 10 years.*

Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers. Recession-related job loss threatens health coverage for many families. To help people maintain coverage, the bill provides a 65% subsidy for COBRA continuation premiums for up to 9 months for workers who have been involuntarily terminated, and for their families. This subsidy also applies to health care continuation coverage if required by states for small employers. With COBRA premiums averaging more than \$1000 a month, this assistance is vitally important. To qualify for premium assistance, a worker must be involuntarily terminated between September 1, 2008 and December 31, 2009. The

subsidy would terminate upon offer of any new employer-sponsored health care coverage or Medicare eligibility. Workers who were involuntarily terminated between September 1, 2008 and enactment, but failed to initially elect COBRA because it was unaffordable, would be given an additional 60 days to elect COBRA and receive the subsidy. To ensure that this assistance is targeted at workers who are most in need, participants must attest that their same year income will not exceed \$125,000 for individuals and \$250,000 for families. The Joint Committee on Taxation estimates that this provision would help 7 million people maintain their health insurance by providing a vital bridge for workers who have been forced out of their jobs in this recession. The bill appropriates **\$21 billion** for the COBRA premium assistance subsidy. *This provision is estimated to cost \$24.7 billion.*