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2014

Tax Increase Prevention Act of 2014

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INTRODUCTION

Waiting until the last minute, Congress passed the ***Tax Increase Prevention Act Of 2014 ("TIPA")*** on December 16, 2014 and the President signed the Act on December 19, 2014. This closely-watched tax legislation extended 50+ individual and business tax breaks ***through 2014*** – that had previously expired at the close of 2013. We are sending you this letter to review the more important tax breaks that *TIPA* extended through 2014.

> **Caution!** There is speculation that Congress may, sometime in 2015, extend these items for one more year through 2015. However, there is no guarantee this will happen.

SELECTED "INDIVIDUAL" TAX BREAKS EXTENDED THROUGH 2014

The following tax breaks for ***individual* taxpayers** were extended ***through 2014:*** **1)** School Teachers' Deduction (up to $250) for Certain School Supplies; **2)** Election to Deduct State and Local Sales Taxes; **3)** Deduction (up to $4,000) for Qualified Higher Education Expenses; **4)** Expanded Deduction and Carryover Limits for Charitable Contributions of Conservation Easements; and **5)** Deduction for Mortgage Insurance Premiums as Qualified Residence Interest.

In addition, the following individual tax breaks were also extended ***through 2014:***

- **Qualifying IRA Transfers To Charities.** For the past several years, we have had a popular (but temporary) rule that allowed an individual, who is at least age 70½, to have the individual's IRA trustee make a qualifying transfer of up to $100,000 from his or her IRA ***directly to a qualified charity,*** and exclude the distribution from the individual's income. The IRA transfer to the charity also counted toward the individual's "required minimum distribution" (RMD) for the year. Although this provision expired after 2013, *TIPA* retroactively extends the provision ***through 2014.***

- **Income Exclusion For Discharge Of Qualified Principal Residence Indebtedness.** A special rule allowing you to exclude from income the discharge (e.g., forgiveness) of all or a portion of a mortgage loan (not exceeding $2 million) that you incurred to purchase, construct, or substantially improve your principal residence, expired after 2013. *TIPA* extends this exclusion to discharges that occur ***through the end of 2014.***

> **Tax Tip.** This exclusion could potentially apply to debt forgiveness involving the "short sale" or foreclosure of your principal residence.

- **Credit For Energy-Efficient Improvements To Principal Residence.** The temporary 10% credit (with a life-time cap of $500) for qualified energy-efficient home improvements expired after 2013. *TIPA* retroactively extends this credit for qualifying installations ***made through December 31, 2014.***

  Planning Alert! The current 30% credit for installing a qualifying solar water heater, solar electric generating property, a geothermal heat pump, or a small wind energy property in or on your residential property is not ***currently scheduled to expire until after 2016.***

SELECTED **"BUSINESS" TAX BREAKS EXTENDED THROUGH 2014**

TIPA ***retroactively*** extends ***through 2014*** the following tax breaks for ***businesses*** that had expired or had been reduced after 2013: **1)** 15-Year (Instead of 39-Year) Depreciation Period for "Qualified" Leasehold Improvements, Restaurant Property, and Retail Improvement Property; **2)** 7-Year Depreciation Period for Certain Motor Sports Racetrack Property; **3)** Research and Development Credit; **4)** Employer Differential Wage Credit for Payments to Military Personnel; **5)** Favorable S Corporation Charitable Contribution Provisions Involving Capital Gain Property; **6)** Temporary Exclusion of 100% of Gain on the Sale of Certain Small Business Stock for Both Regular Tax and AMT Purposes; **7)** A Host of Tax Benefits for Qualified Energy-Efficient Expenditures, and for Qualifying Investments in Empowerment Zones; **8)** 5-Year (Instead of 10-Year) *Recognition Period* for S Corporation Built-in Gains Tax; **9)** Election for C Corporations to Exchange Bonus Depreciation for Refundable AMT Credits; **10)** Parity Between Employer-Provided Parking and Transportation Tax-Free Fringe Benefits; and **11)** Enhanced Charitable Contribution Rules for Qualifying Business Entities Contributing Food Inventory.

In addition, TIPA extends the following business tax breaks ***through 2014:***

- **First-Year 50% 168(k) Depreciation Deduction.** TIPA extends the 50% 168(k) deduction for *qualifying* "new" business property to property placed-in-service **through December 31, 2014** (through December 31, 2015 for certain long-production-period property and qualifying noncommercial aircraft).

  - **Qualifying 50% 168(k) Bonus Depreciation Property.** Generally, property qualifies for the 50% 168(k) depreciation deduction if it is purchased *new* and is either a "qualified leasehold improvement," or has a depreciable life for tax purposes of *20 years or less* (e.g., machinery and equipment, furniture and fixtures, cars and light general purpose trucks, sidewalks, roads, landscaping, depreciable computer software, farm buildings, and qualified motor fuels facilities).

    Planning Alert! "Qualified restaurant property" and "qualified retail improvement property" (described in the section 179 discussion below) do not qualify for the §168(k) deduction unless the property also constitutes a "qualified leasehold improvement."

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- •• **168(k) Depreciation Deduction For Passenger Automobiles, Trucks, And SUVs.** The maximum annual depreciation deduction (including the section 179 deduction) for most *business automobiles* is capped at certain dollar amounts. For a business auto first placed-in-service in **calendar year 2014,** the maximum first-year depreciation deduction is generally capped at $3,160 ($3,460 for trucks and vans not weighing over 6,000 lbs.). However, Congress increased the first-year depreciation cap by $8,000 for 2008 through 2013 for qualifying new vehicles otherwise qualifying for the 168(k) depreciation deduction. *TIPA* extends this $8,000 increase in the first-year depreciation deduction limitation to qualifying new vehicles placed-in-service ***through December 31, 2014.***

- **Expanded Section 179 Deduction Extended Through 2014.** For tax years beginning in 2010 through 2013, the maximum section 179 up-front deduction for the cost of qualifying new or used depreciable tangible personal property (e.g., business equipment, computers, etc.) was $500,000. In addition, the phase-out of the 179 deduction began once qualifying 179 property acquisitions exceeded $2,000,000. However, for tax years beginning in 2013, the maximum section 179 deduction was scheduled to be $25,000 and the phase out of the deduction was to begin once qualifying 179 acquisitions exceeded $200,000. In addition, for purchases in 2010 through 2013, a taxpayer could elect for up to $250,000 of "qualified real property" (discussed below) to be section 179 property. However, no section 179 deduction was to be allowed for qualifying real property after 2013. ***TIPA retroactively extends the favorable section 179 provisions in effect in 2013*** (i.e., $500,000 section 179 cap; up to $250,000 section 179 deduction for "qualified real property;" and the $2,000,000 phase-out threshold) **for qualifying property placed-in-service in *tax years beginning in 2014.***

- •• **"Electing" To Treat Up To $250,000 Of *"Qualified Real Property"* As Section 179 Property.** Traditionally, the up-front section 179 deduction has been allowed only for depreciable, tangible, personal property, such as equipment, computers, vehicles, etc. However, taxpayers may "elect" to treat up to $250,000 of "qualified *real* property" as §179 property, provided the property is **placed-in-service in tax years beginning in 2010 through 2014.** "Qualified Real Property" includes property within any of the following three categories: **1) Qualified Leasehold Improvement Property** (generally capital improvements to the interior portion of certain leased buildings that are used for nonresidential commercial purposes); **2) Qualified Retail Improvement Property** (generally capital improvements made to certain buildings which are open to the general public for the retail sale of tangible personal property); and **3) Qualified Restaurant Property** (generally capital expenditures for the improvement, purchase, or construction of a building, if more than 50% of the building's square footage is devoted to the preparation of, and seating for, the on-premises consumption of prepared meals).

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Planning Alert! The $500,000 overall section 179 deduction limitation is reduced by any section 179 deduction taken for *qualified real property*.

- **Work Opportunity Tax Credit Extended Retroactively Through 2014.** For the past two decades many employers have taken advantage of the popular Work Opportunity Tax Credit (WOTC) for hiring workers. This credit had expired for *qualified workers* hired after 2013. ***TIPA* reinstates the WOTC retroactively for all qualifying individuals *hired through December 31, 2014.***

  Tax Tip. To encourage employers to hire more military veterans, in 2011 Congress added an expanded ***"qualified veteran"*** category to the types of employees that qualify for the WOTC. Depending on the "tax" classification of the *"qualified veteran,"* the maximum credit runs from $2,400 to $9,600, provided the *qualified veteran* is hired ***after November 21, 2011*** and ***before 2015.*** In addition, unlike the WOTC allowed for other qualifying employees, tax-exempt employers (other than government agencies) that hire *"qualified veterans"* ***after November 21, 2011*** and ***before 2015,*** may receive a *"refundable"* credit of 65% of the credit allowed to taxable employers.

  Planning Alert! To qualify for the WOTC, all employers (including tax-exempt employers who hire "qualified veterans") must have the new worker complete IRS **Form 8850** ("Pre-Screening Notice and Certification Request for the Work Opportunity Credit") and submit that form to the state employment security agency ***no later than 28 days*** after the employee begins work. You can locate Form 8850 at www.irs.gov. The instructions to the form provide detailed information on the categories of workers who qualify for the WOTC (including the definition of a *"qualified veteran*").

FINAL COMMENTS

This letter does not address all tax provisions contained in *TIPA*, but only highlights previously expired tax breaks that were extended. Please contact us if you are interested in a tax topic that is not discussed in this letter. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. Our firm closely monitors these changes. In addition, please call us if you need additional information.

Caution! The information contained in this letter represents a general overview of selected tax provisions contained in *TIPA*, and should not be relied upon without an independent, professional analysis of how any of these provisions may apply to a specific situation.