Tax Extenders — Late-Breaking News

Cross References

- H.R. 5771

On December 16, 2014, the Senate passed the Tax Increase Prevention Act of 2014 by a vote of 76 to 16. The House had passed the legislation on December 3, 2014 by a vote of 378 to 46. The President is expected to sign the bill into law. The following information provides summaries of the tax provisions contained in the legislation.

Extension of Expiring Provisions

The law extends the following tax provisions that had expired on December 31, 2013. Page references are to *TheTaxBook 1040 Edition/Deluxe Edition* pages that were printed prior to the passage of this legislation.

State and local general sales taxes (page 4-9). A taxpayer can elect to deduct state and local income taxes or state and local general sales taxes as an itemized deduction, but not both. This election was set to expire for sales taxes paid after December 31, 2013. The new law extends this election for the 2014 tax year and expires for sales taxes paid after December 31, 2014. For state and local general sales tax tables, see *TheTaxBook* Updates Page at www.thetaxbook.com.

Tuition and fees deduction (page 12-5). A taxpayer can deduct as an above-the-line deduction certain qualified education expenses paid for eligible students. The deduction is claimed on Form 8917, *Tuition and Fees Deduction,* and Form 1040, line 34. This deduction was set to expire for tuition and fees paid after December 31, 2013. The new law extends this deduction for the 2014 tax year and expires for tuition and fees paid after December 31, 2014.

Section 179 expense deduction (page 9-6). Taxpayers can elect to expense the cost of property placed in service during the year rather than depreciate the cost over the property's class life. The expense limit was $500,000 for property placed in service during tax years 2010 through 2013 with an investment limitation that began to phaseout the deduction when the cost of Section 179 property placed in service during the year exceeded $2 million. This $500,000/$2,000,000 limitation was set to go back to $25,000/$200,000 for tax year 2014. The new law extends the $500,000/$2,000,000 limitations for the 2014 tax year, with the $25,000/$200,000 limitations to apply after December 31, 2014.

The new law also extends the provision that treats the cost of off-the-shelf computer software as eligible Section 179 property for the 2014 tax year.

The new law also extends the provision that allows a taxpayer to revoke the Section 179 expense deduction for the 2014 tax year.

Special depreciation allowance (page 9-9). The special depreciation allowance (also called bonus depreciation) allows taxpayers to recover 50% of the cost of qualified property placed in service during the tax year. The property must be new property with its original use beginning with the taxpayer (used property does not qualify). This provision was set to expire for property placed in service after 2013 (2014 for certain long life and transportation property). The new law extends this deduction for the 2014 tax year and expires for property placed in service after December 31, 2014 (December 31, 2015 for certain long life and transportation property). The new law also extends through December 31, 2014 the election to accelerate the AMT credit in lieu of bonus depreciation under IRC section 168(k)(4). The new law also adds a new conforming provision for round 4 extension property for purposes of the election to accelerate the AMT credit in lieu of bonus depreciation. See IRC section 168(k)(4)(K) for details.

Educator expenses (page 3-4). Eligible educators (kindergarten through grade 12) can deduct up to $250 (per spouse) of qualified out-of-pocket expenses paid during the year for books, supplies, equipment (including computers), and other materials used in the classroom. The expense is taken on line 23 of Form 1040 and is not subject to the 2% AGI limitation for miscellaneous itemized deductions. This deduction was set to expire for expenses incurred after December 31, 2013. The new law extends this deduction for the 2014 tax year and expires for expenses incurred after December 31, 2014.

Qualified principal residence debt (page 14-14). In general, the cancellation of debt produces taxable income. Taxpayers may exclude income from cancellation of qualified principal residence indebtedness. The exclusion is limited to $2 million of acquisition debt. This provision was set to expire for debt discharged after December 31, 2013. The new law extends this provision for the 2014 tax year and expires for debt discharged after December 31, 2014.

Transportation benefits (page 13-32). The value of qualified transportation benefits provided to employees is excluded from taxable wages. In 2013, the limit for combined commuter highway vehicles and transit passes was the same as the limit for qualified parking ($245 for each). The parity for these benefits was set to expire after 2013, so that the limit for combined commuter highway vehicles and transit passes in 2014 would be $130 while the qualified parking limit would be $250 (2014 inflation adjusted amounts). The new law extends this parity to 2014 so that the combined commuter highway vehicle and transit pass limit is now $250, as well as $250 for qualified parking. This parity is set to expire for tax years after 2014.

Mortgage insurance premiums (page 4-13). Premiums paid for acquisition indebtedness for insurance contracts on a first or second home are treated as deductible mortgage interest, subject to phaseout rules. Qualified mortgage insurance providers include the Veterans Administration, the Federal Housing Administration, the Rural Housing Administration, and certain private mortgage insurance. Treating mortgage insurance premiums as deductible mortgage interest was due to expire after 2013. The new law extends this deduction for the 2014 tax year and expires for premiums paid after December 31, 2014.

Charitable contributions of IRA distributions (page 4-19). A qualified charitable distribution is a non-taxable distribution made directly by the trustee of the taxpayer's IRA to an eligible charitable organization. The distribution is not included in income, and the contribution is not deducted as a charitable contribution, thus avoiding the AGI limitations that apply to charitable contributions. This provision was set to expire on December 31, 2013. The new law extends this provision for the 2014 tax year and expires for IRA distributions made after December 31, 2014.

Conservation contribution (page 4-19). A qualified conservation contribution is a contribution of a real property interest to a qualified organization exclusively for conservation purposes, such as the contribution of a conservation or historic preservation easement. In general, the deduction for contributions of capital gain property is limited to 30% of AGI. This limit is increased to 50% of AGI for qualified conservation contributions and 100% of AGI if the taxpayer is engaged in the trade or business of farming or ranching. The increased AGI limitations were set to expire on December 31, 2013. The new law extends this provision for the 2014 tax year and expires for contributions made after December 31, 2014.

Leasehold and retail improvements and restaurant property (page 9-10). In general, non-residential real property has a class life of 39 years for depreciation purposes and is not eligible for the Section 179 expense deduction. An exception applies for qualified leasehold improvement property, qualified retail improvement property, and qualified restaurant property. These are eligible for either 15-year straight-line depreciation under IRC §168(e)(3)(E), or the Section 179 expense deduction under IRC §179(f)(1). The 15-year SL depreciation provision and Section 179 expense deduction provision were set to expire on December 31, 2013. The new law extends these provision for the 2014 tax year and expires for property placed in service after December 31, 2014.

Gains on small business stock (page 6-8). Taxpayers can exclude up to 50% of the gain on the sale or exchange of qualified small business stock held more than 5 years under IRC §1202. The 50% exclusion was increased to 75% for stock acquired after February 17, 2009, and up to 100% for stock acquired after September 27, 2010. The 100% exclusion was scheduled to go back down to 50% for stock acquired after December 31, 2013. The new law extends the 100% exclusion for qualified small business stock acquired during 2014 and the 50% exclusion applies for stock acquired after December 31, 2014.

Built-in gains tax for S corporations (page 19-12, *Deluxe Edition/Small Business Edition*). If a C corporation elects S corporation status, the corporation is subject to the built-in gains tax on net gains from property that is sold or distributed within 10 years of the election to be taxed as an S corporation. The 10-year holding period was reduced to seven years if the S election was made in 2009 or 2010, and five years if the S election was made in 2011 through 2013. The new law extends the 5-year holding period requirement for S elections made in 2014, and the 10-year holding period applies for S elections made after 2014.

Charitable contributions of appreciated property by S corporations (page 19-9, *Deluxe Edition/Small Business Edition*). In general, the amount of losses and deductions an S corporation shareholder can claim is limited to the shareholder's adjusted basis in stock and direct loans made by the shareholder to the corporation. An exception applies to a charitable contribution of appreciated property to the extent the shareholder's pro-rata share of the contribution exceeds the shareholder's pro-rata share of the adjusted basis of the property contributed. This exception was set to expire for contributions after December 31, 2013. The new law extends this exception for 2014, and expires for contributions of appreciated property made after December 31, 2014.

Energy tax provisions. The following energy tax provisions were extended through December 31, 2014:

- Nonbusiness Energy Property Credit, page 11-14. (IRC §25C)
- The energy efficient commercial buildings deduction, page 8-6. (IRC §179D)
- Energy Efficient Home Credit, page 11-2. (IRC §45L)
- Biodiesel and Renewable Diesel Fuels Credit, page 11-2. (IRC §40A)
- Second Generation Biofuel Producer Credit, page 11-2. [IRC §40(b)]
- Production credit for Indian coal facilities placed in service before 2009. [IRC §45(e)]
- Credits with respect to facilities producing energy from certain renewable resources, page 11-3. [IRC §45(d)]
- The special allowance for second generation biofuel plant property. [IRC §168(l)]
- The Alternative Fuel Credit. [IRC §6426(d)]

Extension of other provisions. The new law also extends the following tax provisions through December 31, 2014:

- The Credit for Increasing Research Activities, page 11-2. A conforming amendment extends this provision for purposes of the clinical testing expense credit. (IRC §45C)
- The temporary minimum low-income housing tax credit rate for non-federally subsidized buildings. [IRC §42(b)(2)]
- The military housing allowance exclusion for determining whether a tenant in certain counties is low-income under the Housing Assistance Tax Act of 2008.
- The Indian Employment Credit, page 11-2. (IRC §45A)
- The New Markets Tax Credit, page 11-3. (IRC §45D)
- The Railroad Track Maintenance Credit. (IRC §45G)
- The Mine Rescue Team Training Credit. (IRC §45N)
- The Employer Wage Credit for Activated Military Reservists. (IRC §45P)
- The Work Opportunity Credit, page 11-3. (IRC §51)
- Race horses two years old or younger treated as 3-year property instead of 7-year property, page 9-16. [IRC §168(e)]
- Motorsports entertainment complexes eligible for 7-year recovery period. [IRC §168(i)(15)]
- Indian reservation property accelerated depreciation recovery periods, page 9-16. [IRC §168(j)]
- The enhanced charitable contribution deduction for contributions of food inventory by C corporations, page 18-10, *Deluxe Edition/Small Business Edition.* [IRC §170(e)(3)(C)]
- The election to expense mine safety equipment. (IRC §179E)
- The special expensing rules for certain film and television productions. (IRC §181)

- The deduction allowable with respect to income attributable to domestic production activities in Puerto Rico. [IRC §199(d)(8)]
- The modification of the tax treatment of certain payments to controlling exempt organizations. [IRC §512(b)(13)]
- The treatment of certain dividends of Regulated Investment Companies. [IRC §871(k)]
- RIC qualified investment entity treatment under FIRPTA. [IRC §897(h)(4)(A)]
- Empowerment zone tax incentives. [IRC §1391(d)]
- Special basis rule for stock in an S corporation making charitable contributions of property, page 19-9, *Deluxe Edition/Small Business Edition.*

Provisions not extended. The legislation did not extend the following provisions.

- Credit for two- or three-wheeled plug-in electric vehicles. [IRC §35(a)]
- Credit for energy-efficient appliances. (IRC §45M)
- Placed-in-service date for partial expensing of certain refinery property. [IRC §179(c)(1)]