



Tax Tips to Maximize Your Year-end Planning

With careful planning, you can take advantage of specific tax provisions from 2010 that have been renewed, as well as certain others currently in effect, but that may not be available in 2012. Please consult your tax advisor to maximize potential deductions, credits and other changes.

Two provisions are scheduled to expire after 2011:

- **Bonus Depreciation:** Qualifying assets acquired after September 8, 2010, and placed in service before 2012, are eligible for depreciation of 100 percent, according to the 2010 Tax Relief Act. Previously, the rate was 50 percent. Bonus depreciation is scheduled to return to 50 percent for assets placed in service starting in 2012 and is currently scheduled to expire after 2012.

- **Enhanced Expensing:** The aggregate Section 179 expensing limitation is set at an all-time-high of \$500,000 for tax years beginning in 2010 or 2011. Thereafter, the cap is lowered to \$125,000 (adjusted for inflation) in 2012, with a subsequent reduction to \$25,000 (adjusted for inflation) scheduled for tax years beginning after 2012. The limit of aggregate qualifying property placed in service in 2010 or 2011 is similarly at an all-time-high of \$2 million. This amount drops to \$500,000 for tax years beginning in 2012 and \$200,000 after 2012.

These three provisions have been extended from 2010 through December 31, 2011. Act now to take advantage of them, if they apply to your business.

- **Research Credit:** This credit generally is equal to a portion of qualified research

expenses. Savings can be substantial, even if it is complicated to calculate; your tax advisor can provide guidance. The 2010 Tax Relief Act extended the research credit (also commonly referred to as the “research and development” or “research and experimentation” credit) through 2011.

- **Work Opportunity Credit:** This credit benefits businesses that hire employees from certain disadvantaged groups, such as ex-felons, food stamp recipients and disabled veterans. The credit equals 40% of the first \$6,000 of wages paid to qualifying employees and \$12,000 for wages paid to qualified veterans.

- **Retention Credit:** Employers who hired workers in 2010 may be eligible for the retention credit. The tax savings per qualified retained worker are equal to the lesser of 6.2% of wages paid to the worker during the 52-consecutive-week retention period or \$1,000. This credit generally applies to workers who qualified for payroll tax forgiveness under the Hiring Incentives to Restore Employment (HIRE) Act of 2010.

In order to claim the business credit in 2011, you must create HIRE Act records with each qualified employee’s date of hire to determine when the employee reached the consecutive 52 week mark. Other records include signed W-11 forms on file with appropriate payroll and tax records.

This provision affects tax years 2010 through 2013.

- **Health Care Coverage Credit For Small Business:** Employers who pay group health coverage premiums may receive a maximum credit of 35%. Employers must contribute at least 50% of the total premium or of a benchmark premium. The

full credit is available for employers with 10 or fewer full-time equivalent employees (FTEs) and average annual wages of less than \$25,000 per employee. Partial credits are available on a sliding scale to businesses with between 10 to 25 FTEs and average annual wages of less than \$50,000.

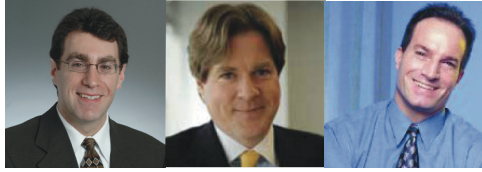
The following provisions expire after December 31, 2011, unless extended by Congress; consider whether or not they are applicable to your business:

- Exclusion of the 100 percent of gains for small-business stock acquired before 2012;
- An enhanced deduction for contributions of food inventory to qualified organizations;
- Adjustment of the basis of stock of an S corporation made as charitable contributions of property; and
- Various energy-related incentives.

The widespread expectation of tax increases in 2013 may prompt consideration of accelerating income into 2012. This strategy needs to be considered now when deciding whether to defer 2011 income into 2012. You want to balance overall tax liability between 2011 and 2012 and also to maximize use of the current rate structure.

Year-end tax planning always involves juggling a number of moving parts. In 2011, plans are complicated not only by an economy that demands consideration of loss techniques and other “downturn” strategies, but also by expiring provisions and upcoming changes in future years. Your Anchin relationship partner can explore these and other considerations with you. •

Impact of the Food Safety Modernization Act



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The terrorist attacks of September 11, 2001, prompted increased concerns about bioterrorism and the need for increased regulation and controls in the food manufacturing sector, ultimately resulting in the passage of the Food Safety Modernization Act (FSMA) in January, 2011. Failure to comply with these new stringent regulations can result in fines, loss of business and damage to the company's reputation. The Act is having a significant impact on the sourcing, production and distribution aspects of the food and beverage industry.

In a three-part educational program at Anchin attended by food executives from more than 30 companies, Wank reviewed the context of the enactment of the Act, Cone outlined the key provisions and requirements of the law, and Scioscia described the features of the software his firm has developed to help food and beverage manufacturers keep in compliance.

Wank cited the example of the Topps Meat Company as indicative of what can happen to a company that fails to take quick action in the case of a recall. A privately owned family business, Topps Meat produced and distributed frozen hamburger patties. In 2007, contamination of E. Coli in their ground beef led to one of the largest product recalls in U.S. history, forcing

the company to cease operation shortly afterwards. The decision to wait 18 days to recall the product put Topps Meat out of business, Wank said.

Cone stated that Congress responded to this failure of compliance, the threat of bioterrorism, plus other issues of consumer safety, by enacting the FSMA.

The FSMA covers anyone who manufactures, processes, packs, distributes, receives, holds or imports an article of food (excluding restaurants and certain small farms). There are special considerations and guidance for small businesses.

The FSMA's key provisions may be broadly categorized as preventative controls, traceability, increased inspection and product recalls. Taken together, they put all domestic and imported food under increased scrutiny with standards, certifications and testing requirements.

In terms of Preventative Controls, the FDA must establish standards for the safe production and harvesting of fruits and vegetables. Food facilities are required to evaluate hazards and have a written preventative controls plan. Facilities must monitor controls, correct shortfalls and self-audit through testing, etc., and maintain written records of these measures. The effective date for compliance is July 2012. There is an exemption for small businesses that sell locally.

The role of inspectors is also crucial to the FSMA, Cone said. The increased frequency of inspections based on risk factors and increased access to records places companies in a much stricter compliance environment. Based on the nature of the food, plus a facility's compliance history, preventative controls, hazard analysis, etc., facilities are classified as low- or high-risk

and inspected on a set schedule. High-risk facilities must be inspected once within five years and every three years thereafter, and low-risk facilities must be inspected once within seven years and every five years thereafter.

Under the FSMA, the FDA now has authority to order mandatory recalls; previously, recalls were voluntary without a court order. Failure to recall products could result in fines up to \$500,000. In addition, the FDA is permitted to recall food product where there is a reasonable probability that food is misbranded and threatens human or animal life.

Given the new, stricter compliance framework, many attendees were interested in the features of the S2K software described by Scioscia.

The program helps food and beverage manufacturers adhere to compliance standards through tracking the manufacturing, processing, packing, distribution, receipt, holding and importation of any product. In addition, manufacturers are better able to respond to the retail customers who seek verification that their suppliers have been certified to meet the standards of the Safe Quality Food Institute (SQF), whether they are producers or manufacturers and distributors.

Wank said that in this enhanced regulatory environment, companies should:

- Develop and implement written preventative controls consistent with the new compliance standards;
- Institute a product recall program, and
- Constantly monitor any new regulations and continue to adhere to these rules. •



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