THE ECONOMIC STIMULUS ACT OF 2008

SUMMARY AND EXPLANATION

- **"Economic Stimulus" Rebate Checks**
- **Temporary increases in Expensing of Depreciable Assets**
- **Special Depreciation Allowance for Certain Property**

The House and Senate on February 7, 2008 passed the Economic Stimulus Act of 2008. The Act was signed by President Bush on February 13, 2008.

The Act provides several kinds of stimulus intended to boost the US economy in 2008 and to avoid or lessen an economic recession. The Act provides tax rebates for low- and middle-income US taxpayers, and tax incentives to stimulate business investment. A summary of the Act's provisions follows.

The economic stimulus rebate provision

The provision of interest to most taxpayers is the "recovery rebate" provision intended to deliver an expedited fiscal stimulus to the economy.

How it works. Eligible individuals (those who are not nonresident aliens, estates, trusts or dependents) receive a basic credit beginning in 2008 equal to the greater of (i) their net income tax liability not to exceed $600, or (ii) $300 ($600 on a joint return), if (1) the eligible individual has qualifying income (the total of the individual's earned income, social security benefits, and veterans payments) of at least $3000, or (2) the eligible individual has a net income tax liability of at least $1 and gross income greater than the sum of the applicable standard deduction amount and one personal exemption (two personal exemptions on a joint return).

Additional Child Credit. If an individual is eligible for the basic credit, he/she may also be eligible for a "qualifying child credit" equal to $300 for each qualifying child (any child meeting the definition used for the child credit).

AGI limitation. The amount of the credit is phased out at a rate of 5% of Adjusted Gross Income above $75,000 for single filers and $150,000 for joint filers.

Temporary increase in limitations on expensing certain depreciable business assets

Under present law, a taxpayer may elect under Internal Revenue Code ("Code") section 179 to deduct (or "expense") the cost of qualifying property, rather than to recover the cost of such assets through depreciation deductions. Qualifying property is generally defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. For 2008 and later years, the maximum amount that a taxpayer may expense is $128,000 of the cost of the property placed in service for the taxable year, reduced by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $510,000. The amount eligible to be expensed cannot exceed the taxpayer's trade or business taxable income for the year. Any amount not eligible for deduction because of this limitation can be carried forward to succeeding taxable years.

The new law increases the $128,000 and $510,000 amounts to $250,000 and $800,000, effective for tax years beginning in 2008 and later years. These increased amounts are not indexed for inflation.

<u>Special Depreciation Allowance for Certain Property</u>

Under current law, a taxpayer is allowed to recover through annual depreciation deductions the cost of certain property used in a trade or business or for the production of income. The annual depreciation deduction is determined under the MACRS (Modified Accelerated Cost Recovery System), under which different types of property are assigned applicable recovery periods (ranging from 3 to 25 years) and depreciation methods. For example, most computer software costs are recovered over 3 years. Of course, immediate expensing under Code section 179 (see above) is also allowed for some assets.

The new law allows an additional first year depreciation deduction equal to 50% of the adjusted basis of qualified property. This deduction is allowed for both regular tax and alternative minimum tax (AMT) purposes for the taxable year in which the asset is placed in service. The basis of the property and the depreciation allowances in the year the asset is placed in service and later years is reduced by this additional first-year depreciation deduction. The taxpayer may "elect out" of this special additional depreciation allowance.

For property to qualify for this additional first year depreciation deduction,
- It must be property to which MACRS applies with a recovery period of 20 years or less, water utility property, most computer software, or qualified leasehold improvement property.
- The original use of the property must begin after December 31, 2007.
- The taxpayer must purchase the property (or the manufacture, construction or production of the property must begin) after December 31, 2007 and before January 1, 2009 but only if no binding written contract for the purchase is in effect prior to December 31, 2007.
- The property must be placed in service after December 21, 2007 and before January 1, 2009, although a one-year extension of the "placed

in service” date is allowed for certain property (with an estimated production period of over 1 year and a cost of over $1 million) with a 10-year or longer recovery period and certain transportation property.

In addition, the Code section 280F limitation on the depreciation deduction for certain passenger automobiles is increased by $8000 for automobiles that qualify and do not elect out of the additional first-year depreciation deduction.

For additional information on these new tax law provisions, do not hesitate to contact us.

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