

How Does the Economic Stimulus Package Impact Small Business?

On Tuesday, February 17, 2009, President Obama signed The American Recovery and Reinvestment Act into law. This initiative represents the first effort by the Obama Administration to address the current economic crisis facing the U.S. The \$789.5 billion economic stimulus package includes provisions that will impact a variety of groups, including small businesses. While the overall level of commitment of these resources to small business is disappointing in proportion to the rhetoric about the importance of small business to our recovery, there are some benefits potentially available to you and requirements placed upon small business owners of which you should be aware.

More Access to SBA Lending Programs

The U.S. Small Business Administration (SBA) has been given \$736 million, less than 1% of the total proposed budget, to make changes to the agency's lending and investment programs so that they can help more small businesses. The plan contains loan fee reductions, higher guarantees, new SBA programs, and enhancements to current SBA programs. The funding includes:

- Authority for the SBA to create, for one year, a modified 7(a) loan program with a guarantee of up to 90%
- \$375 million for temporary fee reductions or eliminations on SBA loans
- \$255 million for a new Business Stabilization Loan program for "viable small business concerns" which are "experiencing immediate financial hardship" and have a "qualifying small business loan." The SBA could provide or back loans of up to \$35,000 for these companies to avoid default on their obligations.
- An expansion of SBA's 504 Certified Development Company program to allow the refinance of some existing loans for fixed assets as part of small business expansion projects
- An expansion of SBA's Microloan program, enough to finance up to \$50 million in new lending and \$24 million in technical assistance grants to microlenders
- An expansion of SBA's Surety Bond Guarantee program, raising the maximum contract amount that can be covered by an SBA guaranteed surety bond from \$2 million to \$5 million
- New authority for secondary market guarantees and secondary market lending to jumpstart lenders activity in the SBA loan programs and stimulate third party investing in the loan programs.

For more information about your eligibility for these programs, your SBA lending bank will be your best resource. The SBA web site does not yet have very much information about these programs. In most cases, these programs will more directly impact the terms and conditions of your agreement with your lender and the lender's agreement with the SBA.

Tax Burden Relief

Additional provisions exist in the Act to alleviate tax burdens for small businesses. These provisions include:

Increase in Section 179 Expensing Limits

In general, tax code section 179 provides that, instead of depreciating property, a business with a sufficiently small amount of annual property purchases may choose to expense the cost of the property. For taxable years beginning in 2008, the Economic Stimulus Act increased the section 179 expensing limit allowing more property to be currently expensed.

- The Economic Stimulus Act increased the maximum section 179 expense deductions to \$250,000 for qualified section 179 property that is placed in service in tax years that begin in 2008. This is a 95 percent increase from the previous limitation of \$128,000.
- The Economic Stimulus Act also increased the total amount of qualifying property a taxpayer may purchase before the section 179 expensing limit begins to be reduced. Under the new law, the \$250,000 deduction amount is reduced only when a business acquires more than \$800,000 of qualifying property. Prior to

changes made by the Economic Stimulus Act, the reduction began when a business acquired more than \$510,000 of qualifying property.

Special Depreciation Allowance

The Economic Stimulus Act also provides a 50 percent special depreciation allowance for property acquired and placed in service during 2008. Under the new law, a taxpayer is entitled to depreciate 50 percent of the adjusted basis (after subtracting any section 179 deduction taken on that property) of qualified property during the year the property is placed in service.

Combining these two changes will create some significant expense reduction opportunities for small businesses. For example, if a small business purchased and placed in service in 2008 a single piece of property at a cost of \$450,000 that qualified for section 179 expensing and the 50 percent special depreciation allowance, \$250,000 of the cost could be immediately expensed (under section 179) and the remaining \$200,000 of adjusted basis would be available for the 50 percent special depreciation allowance. The taxpayer would also be permitted to take regular depreciation on the remaining \$100,000 of adjusted basis during that year. This is similar to the special depreciation allowance that was previously available for certain property placed in service generally before Jan. 1, 2005, often referred to as "bonus depreciation."

Additional information on these tax opportunities can be found at:

<http://www.irs.gov/newsroom/article/0,,id=183867,00.html>

Extension of Enhanced Small Business Expensing

Small business owners have the ability to write-off the cost of certain capital expenses in the year of acquisition instead of recovering these costs over time through depreciation. In doing so, small businesses will be able to recover the costs faster than before. Under the stimulus legislation, small business taxpayers can write off up to \$125,000 of capital expenditures – subject to a phase out once these expenditures exceed \$500,000. This program will run through the end of 2010.

Five-Year Carryback of Net Operating Losses for Small Business

Prior to this stimulus legislation, net operating losses could be carried back for two years before the year the loss arises and carried forward twenty years after the loss arises. Now, the maximum carryback period will be extended from two to five years before the loss arises. This provision applies to small businesses with gross receipts of \$15 million or less.

Small Business Capital Gains

The provisions within the stimulus legislation allow for a 75 percent exclusion for individuals on the gain from specific small business stock that has been held in excess of five years. This 75% exclusion is an increase from the prior 50% exclusion on the sale of small business stocks. This change applies to stock issued after the date of enactment of the stimulus legislation and before January 1, 2011.

Alternative Minimum Tax Relief

The stimulus legislation allows businesses to accelerate the recognition of a portion of their historic AMT or research and development credits instead of bonus depreciation until the end of 2009. This is an extension of the provision allowed by Congress in 2008. The amount taxpayers may accelerate is calculated based on the amount each taxpayer invests in property that would otherwise qualify for bonus depreciation. The amount is capped at 6% of the historic AMT and research and development credits of \$30 million.

Making Work Pay Tax Credit

The stimulus legislation reduces the 2009 required tax payments for certain small businesses. Under current law, the income tax system is designed to ensure that taxpayers pay taxes throughout the year based on their income and deductions. If the tax is not collected through withholding, taxpayers are required to make quarterly estimated

payments. (The required annual payment of less than 90% of the tax shown on the return or 100% of the tax on the return for the prior taxable year.)

Expansion of Access to COBRA Benefits for Employees and Responsibilities for Employers

It is important for small businesses to understand new obligations and administrative requirements that will exist as a result of new health care credits that have been created by the stimulus package. The stimulus package includes \$24.7 billion to fund COBRA subsidies and allow individuals to maintain health care coverage.

Under this package, workers who have been involuntarily terminated between September 1, 2008 and December 31, 2009, have the ability to receive a 65% subsidy to continue their health benefits with their prior employer. That subsidy, however, will not be provided directly to the employee. Instead, it will be collected by employers COBRA Administration process as a reimbursement. For those eligible employees that elect COBRA, Employers will now become responsible for collecting 35% of the cost of the premium from the former employee and advancing the remaining 65% of the COBRA costs to pay for the insurance premium on behalf of the former employee. Employers will be entitled to add 2% to the cost of COBRA to cover their administrative costs.

As such, an employer would pay for continuing health care coverage for their former employee and will be able to bill the employee for 35 percent of 102% of the total cost of coverage. Once an employer receives the 35 percent from the former employee, the employer is able to recoup the remaining 65 percent of the costs through a payroll tax credit from the Treasury Department. Few details currently exist about the timing of reimbursement to businesses for advancing these costs and how a business that finds that it is "upside down" on these payments vs. credits can correct that situation.

Under this package, employers are responsible for notifying eligible former employees about this opportunity for a federal subsidy and employees who originally elected not to take COBRA benefits will be allowed a sixty-day open enrollment opportunity.

Mini-COBRA

It is also important to note that state continuation coverage, sometimes called "mini-COBRA" will also qualify for the subsidy. In Ohio, this would include employers with less than twenty employees. State continuation coverage credit will last for six months instead of the federal time period of 9 months for COBRA. The subsidy for that coverage will also come from credits to payroll taxes through the Treasury Department.

Details are just being determined for this program that will be effective March 1, 2009. Because many payments for March are likely already made or in process, there will be special rules dealing with applying these new requirements in the first thirty days.

COSE is working with Medical Mutual's COBRA Administration team to determine how our members in the COSE Health Insurance Program can ensure they comply with the requirements. We are also working to develop some guidelines for small employers affected by state continuation coverage requirements. For some frequently asked questions about these changes please link here [click here](#) .

Improve Health Information Technology

Health Care Reform is an area in which we expect to see significant action. The Act makes a down payment on change in this area by allocating \$19 billion to address the development and implementation of health information technology standards for information exchange and the development of systems that meet those goals. While these standards and resources will apply primarily to Medicare and Medicaid program providers and systems, due to the size and scope of those programs we will see longer term application to the entire health care market due to these requirements. Improvements in health care information technology will improve efficiency and care.

COSE has long advocated for the need to improve health information technology to enhance communication between providers, coordinate better health care, and ultimately lead to a higher quality of care for patients. We are working with the State of Ohio to consider how it may apply these funds to implementation of improved technology in our state's related health care efforts.