

TAX LETTER

2012 American Taxpayer Relief Act (ATRA) – Businesses

In our January Tax letter, we highlighted provisions in the 2012 American Taxpayer Relief Act (ATRA) which we believe are important to individuals. In this letter, we are going to point out the key “2012 ATRA” items concerning businesses.

For provisions which affecting individuals, the “2012 ATRA” made some of them “permanent” and some of them were extended to the end of 2013. However, provisions regarding the expired and/or expiring business items, the 2012 new law made only extensions. In General, either they are retroactively reinstated and extended to 2013, or they are simply extended to the end of 2013.

1) Research & Development (R&D) Credits.

The R&D Credit, generally, equals to 20% of the excess qualified R&D expenditures over a base amount will remain unchanged. The allowable R&D Credits will be extended to the end of 2013. For members of a controlled group of Companies, the R&D credits will be determined on a proportionate basis according to the sharing of the total qualified R&D expenses.

2) Bonus Depreciation.

The Bonus Depreciation will be reinstated and extended for 2012 and 2013. The amount of the allowable depreciation will be changed from 100% to 50% for both 2012 & 2013. Same as in prior years, this Bonus write-off is allowed to be taken together with IRC Section 179 write-off. However, section 179 expensing amount will be taken before the Bonus Depreciation.

3) IRC Section 179 Expensing.

For 2012 and 2013 the annual allowable IRC Section 179 maximum expensing will be \$500,000 per year with a total investment based phase-out amount beginning at \$2,000,000 each year.

4) Special 15-Year write-off period.

Qualified (i) leasehold improvement, (ii) restaurant property, and (iii) retail improvement, etc., have been allowed to be treated as a 15 year-property for depreciation purpose. At the same time, the 50% Bonus Depreciation can also be applicable to these qualified properties. The “2012 ATRA” extended the allowance to 12/31/2013.

5) Luxury Auto first year depreciation Cap – business use vehicles.

Business use vehicles (including : (i) passenger automobile, (ii) light truck 6,000 pound gross or less , and (iii) mini van and/or SUV) are subject to a depreciation annual Cap. For 2012 and 2013, the new law extended a \$8,000 booster to the 1st year Cap of \$3,160 (passenger vehicle) and \$3,360 (light truck, mini van and SUV). This means the 1st year Cap will be \$11,160 or \$11,360 respectively. (see IRC Sec. 280F for further details)

6) Work Opportunity Tax Credit (WOTC).

Generally speaking, the WOTC is a tax credit for 40% of the 1st year qualify salary/wage of a qualify employee hired within a predetermined time period. The 2012 ATRA extended the time limit to the hiring of a qualify employee up to and including 12/31/2013. A qualify employee is either a veteran or a member of specifically targeted group(s). Caution: a certification or a specific form issued by the State/local Government Employment Agency is necessary. (see IRC Sec. 38 and Sec. 51 for further details)

7) Expensing cost of Film and TV productions.

Before 1/1/2012, taxpayer was allowed to elect to expense all qualify production costs of a Film or a TV program up to \$15 million. Qualify production, generally, means the film or the TV program was produced within the United States. If the film or TV program is produced in a designated low-income community within the US, the total amount can be expensed is \$20 million. The 2012 ATRA extended the deadline of production to 2012 and 2013. (see IRC Sec. 181(f) for further detail)

8) Exclusion of Gain from qualify small business stock.

100% qualify gain from qualified small business stock acquired between 9/27/2010 and 12/31/2011 was excluded from income tax. Subsequently, 50% of qualify gain can be excluded from qualified small business stock acquired during 2012. The 2012 ATRA amended the Code to allow a 100% exclusion of qualified small business stock acquired from 9/27/2010 to 12/31/2013. (see IRC Sec. 1202 for further detail)

Certainly there are more changes, extensions made by the 2012 ATRA. It is our belief that the 8 points discussed above would be of key interest to many small businesses, however.

Sincerely,

Cho F Chan CPA, Inc.
An Accountancy Corporation