

**TAX LETTER**  
**Key Changes of the SBA loan programs**

Dear Clients and Friend,

Regarding the **Small Business Jobs Act (SBJ Act) of 2010**, in our October Tax Letter, we made an attempt to present the key changes to the tax provisions. This month we continue our attempt to discuss the changes affecting the key and the popular loan programs offered by the **Small Business Administration (SBA)**.

Certainly, we can not cover all the changes concerning SBA loans made by the SBJ Act. Accordingly, the following are changes which we believe will affect our readers the most.

(A) Amend the SBA basic loan limitation for a short period of time from date of enactment of the SBJ Act ( Act Section 1111) to the end of 2010 as follows:

- (i) extend, in general, the loan to equity ratio from 75% or 80% to 90%;
- (ii) extend, for certain loan, the gross loan amount from \$1,500,000 to \$4,500,000; and
- (iii) beginning 1/1/2011, the gross loan amount would be reduced from \$4,500,000 to \$3,750,000.

(B) The Maximum Loan Amounts Under the popular **SBA 504 Program** would be changed by SBJ Act Section 1112 as follows:

- (i) for certain loan, SBJ Act will increase the existing \$1,500,000 to \$5,000,000;
- (ii) for certain loan, SBJ Act will increase the existing \$2,000,000 to \$5,000,000; and
- (iii) for certain loan, SBJ Act will increase the existing \$4,000,000 to \$5,500,000.

( C) SBJ Act Section 1113 would change the Maximum Loan Limits Under the **SBA Microloan Program** by amending Section 7(m) of the Small Business Act ( **note**: the SBA was created by this legislation) as follows:

- (i) increase the Microloan amount from \$35,000 to \$50,000; and
- (ii) increase the qualifying business average annual sales from \$3,500,000 to \$5,000,000.

(D) Section 1114 of the SBJ Act extended the deadline for the LOAN GUARANTEE ENHANCEMENT provisions under Public Law 111-5 (the American Recovery and Reinvestment Act of 2009) from May 31, 2010 to December 31, 2010.

(E) New Markets Venture Capital Company Investment Limitations as they are provided by the Small Business Investment Act of 1958 would be amended by the SBJ Act. The following new paragraph will be added to the existing Section 355 of the Small Business Investment Act:

‘(e) Investment Limitations-

‘(1) DEFINITION- In this subsection, the term ‘covered New Markets Venture Capital company’ means a New Markets Venture Capital company--

‘(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

‘(B) that has obtained a financing from the Administrator.

‘(2) LIMITATION- Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of--

‘(A) the regulatory capital of the covered New Markets Venture Capital company; and

‘(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.’.

(F) To facilitate greater number of small businesses to qualify for SBA programs, Section 1116 of the SBJ Act amended Section 3(a) of the Small Business Act by adding at the end the following new provisions:

‘(5) **Alternative Size Standard-**

‘(A) IN GENERAL- The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 ([15 U.S.C. 695](#) et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

‘(B) INTERIM RULE- Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if--

‘(i) the maximum tangible net worth of the applicant is not more than \$15,000,000; and

‘(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than \$5,000,000.’.

**(G)** The Sale of SBA 7(a) Loans in the Secondary Market will be enhanced by adding a new paragraph to the end of Section 5(g) of the Small Business Act.

‘(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than \$500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of \$500,000 and 1 increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any loan in a pool to be not more than \$500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.’.

**(H)** Section 1118 of the SBJ Act mandated that the SBA should establish an “Online Lending Platform” as part of the SBA website. This Lending Platform will (i) list each lender that makes loans guaranteed by the SBA with information about the loan rates offered by each such lender, and (ii) allow prospective borrowers to compare rates on loans guaranteed by the SBA.

*( I ) In addition to the above, there are other changes affecting loan programs and/or loan guarantees from the SBA. Among the changes, one that impact our reader the most would be the establishment of a 3-year “Small Business Intermediary Lending Pilot Program”.* The main purposes of this pilot program are:

(i) to assist small business concerns in areas suffering from a lack of credit due to poor economic conditions or changes in the financial market; and

(ii) to establish a loan program under which the Administrator of SBA may provide loans to eligible intermediaries to enable the eligible intermediaries to provide loans to startup, newly established, and growing small business concerns for working capital, real estate, or the acquisition of materials, supplies, or equipment.

For further discussion of information, please give us a call at 415-381-0681.

Sincerely,

Cho F Chan CPA, Inc.  
An Accountancy Corporation