



The Other Part of The Economic Stimulus Act of 2008



Dr. Bart A. Basi is an attorney, CPA, and the Senior Advisor of The Center for Financial, Legal & Tax Planning, Inc, a full service company specializing in financial, legal & tax matters. Basi is a nationally recognized author, lecturer, and advisor on how to structure deals to minimize taxes. Tax structure makes the difference between getting the deal done and watching the deal fall apart. Many of you may be familiar with Basi and the topics he covers in the *Financial, Legal & Tax Advisory* which may be read in various industry-specific trade publications.

Introduction

Undoubtedly, by now, you have all heard of the Economic Stimulus Act of 2008 and the fact that tax rebate checks will be sent in May or June of this year. The media has done a wonderful job of broadcasting and informing the public of this part of the law. Unfortunately, the media has not informed taxpayers and business people of the other aspects of the Stimulus Act. The Economic Stimulus Act of 2008 also contains sweeping provisions to entice businesses to spend more money on large investments. Specifically, 1) the Section 179 Deduction, an additional depreciation election, has been greatly enhanced, and 2) Bonus Depreciation, also an additional depreciation section, is back.

Enhanced 179 Deduction

Congress has greatly enhanced section 179 expensing during the past 8 years. Formerly, section 179 expensing was limited to \$25,000. With economic stimulus and growth acts in the past decade, the section 179 expense found its way to \$100,000 annually, and was then indexed for inflation. Before the 2008 stimulus law, businesses could expense up to \$128,000 under the Small Business and Work Opportunity Act of 2007 version of section 179. As part of the Stimulus Act of 2008, businesses can now expense up to \$250,000 of equipment purchases under section 179 of the Internal Revenue Code.

Continued on page 2

A CASE STUDY

In a Revenue Ruling, the IRS provided a list of factors to help determine whether a decedent was engaged in an active trade or business regarding real property. The IRS used these factors to resolve whether the interest in real property represented an interest in a closely-held business for purposes of Code Section 6166, which provides an extension for payment of estate tax where the estate consists largely of an interest in a closely-held

business. In addition to the facts and circumstances of each case, the IRS used the following factors to determine whether the decedent conducted an active trade or business: 1) the amount of time the decedent devoted to the trade or business; 2) whether an office was maintained from which the activities were conducted or coordinated and whether the office maintained regular business hours for that purpose; 3) the extent to which the

Continued on page 3



The Center for Financial, Legal & Tax Planning, Inc.

The 2008 Act also increases the threshold phase-out amount to \$800,000. This enhanced amount applies to property purchased and placed into service during 2008.

As in the past, the phase-out is dollar for dollar. The phase-out starts at \$800,000 and is completely phased-out at \$1,050,000. The goal of this element of the Act is that businesses will radically increase their business spending on investment assets, including all types of equipment. The Act makes no changes on the type of equipment that can be expensed under section 179. As in the past, taxpayers who lease equipment are entitled to the full amount of their deduction on leased equipment.

Temporary Bonus Depreciation

Congress has used Bonus Depreciation in the past to encourage economic activity. The latest version of Bonus Depreciation expired on December 31, 2004.

The bonus amount of the depreciation is now 50% for qualifying property. The provisions of the new law are very similar to the version passed by Congress in 2003 and 2004. Under the new law, equipment must be of **original use** beginning after December 31, 2007 and before January 1, 2009. The property must be eligible for MACRS 20 year depreciation period or less, water utility property, computer software or qualified leasehold property.

Further, MACRS property, which can be depreciated for longer than 10 years, but less than 20 years is eligible for bonus depreciation until December 31, 2009.

Once again the goal here is that business investors will spend more money to help an economy ailing from a number of factors.

Conclusion

Under the Stimulus Act of 2008, individual taxpayers are by far not the only taxpayers that benefit. The Stimulus Act of 2008 has tax benefits for businesses as well. Be sure to make your accountant and business decision-maker aware of these key provisions in the 2008 Economic Stimulus Act so that you can take advantage of the new law. Feel free to contact the tax specialists at The Center if you need additional guidance on how to fully utilize these new tax benefits.



WHEN IS THE BEST TIME TO SELL YOUR BUSINESS? - PART 2

Generally, the market for selling any business that has a consistent or improving trend in sales and cash flow is pretty good year in and year out. There always seem to be more qualified buyers, who are eager to find just the right business, than there are good quality businesses for sale, and this trend shows no signs of abating. With the growth of private equity firms, who seem to have an unlimited supply of equity capital to invest in medium- to large-size businesses, demand will likely continue to outpace supply for the foreseeable future.

With the continued aging of the U.S. population, the Baby Boomer generation is just now approaching retirement age, which means that more businesses will likely be available for sale, but it also means that more experienced executives with some severance, savings, and/or retirement plans will be looking to

The Bradway Group—Tampa
1101 Channelside Drive, Suite 290
Tampa, FL 33602-3611

The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959

decedent was actively involved in finding new tenants and negotiating and executing leases; 4) the extent to which the decedent provided landscaping, grounds care, or other services beyond the mere furnishing of the leased premises; 5) the extent to which the decedent personally made, arranged for, performed, or supervised repairs and maintenance to the property; and 6) the extent to which the decedent handled tenant repair requests and complaints.

Editor's Comment: In the cases reviewed by the IRS, the decedent owned the real property individually or held an interest in a partnership, LLC, or corporation that owned or managed the real property, in which all formalities were met. It is important to remember that while these factors provide helpful guidelines, they are non-exclusive, meaning that the facts and circumstances of each case will be carefully considered by the IRS. It is also important to keep in mind that in order to qualify for the extension in the first place, the value of an interest in a closely-held business must exceed thirty-five percent of the adjusted gross estate. The benefit of meeting the above criteria is that the estate taxes do not have to be paid immediately. The estate taxes can be paid over a period of time, thus assisting the successors in their cash flow.

Points of Interest

- **The Economic Stimulus Act of 2008 also contains sweeping provisions to entice businesses to spend more money on large investments.**
- **As part of the Stimulus Act of 2008, businesses can now expense up to \$250,000 under Section 179.**
- **The goal of this part of the act is that businesses will radically increase their business spending on investment assets including all types of equipment.**

The Bradway Group—Palm Beach
824 US Highway 1, Suite 270
North Palm Beach, FL 33408

relocate from the northern states with their cold, cold winters, and retire or semi-retire to Florida and other warmer, southern states. Many will want to acquire a business as a way to stay active and increase their net worth before fully retiring.

Acquiring a business of sufficient size is also one of the last remaining avenues to secure a permanent visa if you're trying to relocate to the U.S. from another country, and this has helped keep the market for businesses strong.

The market for selling your business does tend to follow the overall health of the U.S. economy to some degree, and higher interest rates have a chilling effect on the market. Some deals that make great sense at 7% - 8% interest, simply won't fly at 12%.

In spite of all the news about the continuing credit crunch, 2008 should continue to be an excellent year for business sales as interest rates continue to be at near record lows, and the Fed has indicated that it's prepared to keep lowering rates as needed to avoid a recession. One final factor that should make 2008 a good year for selling your business is the very low capital gains tax rate. Many political pundits believe that we're very likely to see a Democratic President sworn into office in January, and all of the Democratic front runners have pledged to repeal the tax cuts that have been enjoyed by "the rich, business owners" in recent years.

If you know of a business owner who's thinking of selling or buying a business and who might benefit from a free consultation with us, have them contact me, or any of the M&A professionals at www.bradwaygroup.com

Mike Ertel, CBI, M&AMI
The Bradway Group
813.299.7862 Direct
ertel@bradwaygroup.com

© 2008, J. Michael Ertel, PA

The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959

The Bradway Group—Palm Beach
824 US Highway 1, Suite 270
North Palm Beach, FL 33408
Phone: 561-776-8085
Fax: 561-776-1844

The Bradway Group—Tampa
1101 Channelside Drive, Suite 290
Tampa, FL 33602-3611
Phone: 813-864-6600
Fax: 813-864-6601

The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959
Phone: 618-997-3436
Fax: 618-997-8370

Satellite Office:
Longboat Key, FL 34228
Phone and Fax: 941-383-3338



We're on the Web!

www.taxplanning.com

www.bradwaygroup.com

Frequently Asked Questions...



Q: I am engaging in estate planning, in what year does the estate tax exemption go back down to \$1,000,000?

A: On January 1, 2011, the estate tax exemption goes from unlimited back down to \$1,000,000. Unfortunately for many, this exemption amount targets many people in the middle class. Since the housing boom and increase in the stock market, many people who would not have ordinarily have been considered wealthy will now be subject to the estate tax unless Congress acts.

Q: April 15, the deadline for individuals to file their taxes is rapidly approaching. I would like to bring down my taxable income for 2007. How can I do this?

A: One way you can bring down your taxable income is with an IRA contribution. Contributions made from now until April 15 are tax deductible on the previous year's taxes. IRA contributions of up to \$4000 or \$5000 for those of you age 50 and above can be deducted from last year's taxes.

If you no longer want to receive this e-mail publication, please send an e-mail to mail@bradwaygroup.com requesting to be removed from our mailing list.