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## *House of Representatives approves permanent extension of Section 179 expensing, S corporation provisions*

June 12, 2014

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### *In brief*

The House of Representatives today voted 272 to 144 to approve a bill (H.R. 4457) to extend permanently 'small business' Section 179 expensing limits. The House also voted 263 to 155 to approve an 'S Corporation Permanent Tax Relief Act' (H.R. 4453) that makes permanent the five-year recognition period for built-in gains of S corporations, and makes permanent certain rules related to basis adjustments to the stock of S corporations making charitable contributions of property.

This action by the House marks a continuation of an effort by the House Ways and Means Committee to make permanent select expired provisions in advance of future action on comprehensive tax reform. Previously, the House on May 9 passed a bill (H.R. 4438) permanently extending and modifying the research credit, which was approved by the committee in late April. Other provisions that would be made permanent in bills approved by the Ways and Means Committee include 50-percent bonus depreciation, 'look-through' treatment for controlled foreign corporations, and Subpart F exceptions for active financing income.

Meanwhile, Senate Majority Leader Harry Reid (D-NV) recently announced that further Senate efforts to act on an \$85 billion 'tax extenders' bill (S. 2260) approved by the Finance Committee would likely be delayed until after the November elections, due to a lack of agreement on which floor amendments should be considered. The Finance Committee bill temporarily extends more than 50 expired or expiring tax provisions on a retroactive basis through the end of 2015, including those provisions that the House would make permanent. For more on the Senate Finance Committee bill, see our April 3 [WNTS Insight](#).

Congress must reconcile differences between the House and Senate before any final legislation can be sent to the White House for action by President Obama. Final action on tax extenders currently is not expected to occur until after the November midterm Congressional elections.

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### *In detail*

#### **Section 179 expensing**

Under the Section 179 expensing bill (H.R. 4457) approved by the House today, the maximum amount a taxpayer may expense under

Section 179, for taxable years beginning after 2013, is \$500,000 of the cost of qualifying property placed in service for the taxable year. The \$500,000 amount is reduced (but not below zero) by the amount by which the

cost of qualifying property placed in service during the taxable year exceeds \$2 million. The \$500,000 and \$2 million amounts are indexed for inflation for taxable years beginning after 2014.

In addition, for taxable years beginning after 2013, H.R. 4457:

- makes permanent the treatment of off-the-shelf computer software as qualifying property;
- makes permanent the treatment of qualified real property as eligible Section 179 property;
- removes the limitation related to the amount of qualified real property that qualifies as Section 179 property; and
- repeals a current-law provision that excludes air conditioning and heating units from the definition of qualifying property.

The bill also permits a taxpayer to revoke without IRS consent any election made under Section 179 after 2002.

Joint Committee on Taxation (JCT) staff estimates that this bill would reduce federal revenues by \$73.1 billion over 10 years.

#### ***S corporation built-in gain***

H.R. 4453 makes permanent the five-year recognition period for built-in gains of S corporations. Under current Treasury regulations, this five-year recognition period also would apply to real estate investment trusts and

regulated investment companies that do not elect 'deemed sale' treatment.

#### ***S corporation charitable contributions of property***

Under a rule approved by the House, H.R. 4454 was amended to include a separate S corporation bill (H.R. 4454) approved by the Ways and Means Committee. This provision makes permanent certain rules related to basis adjustments to the stock of S corporations making charitable contributions of property, effective for taxable years beginning after December 31, 2013.

JCT staff estimates that the two S corporation bills would have a combined cost of 2.1 billion over 10 years.

#### ***Other House bills to permanently extend certain expired provisions***

It is unclear whether House Republican leaders plan to schedule floor votes on the following permanent tax extender bills that also have been approved by the Ways and Means Committee:

- 50-percent bonus depreciation (H.R. 4718)
- 'look-through' treatment for controlled foreign corporations (H.R. 4464)

- Subpart F exceptions for active financing income (H.R. 4429)
- Charitable donations of conservation easements (H.R. 2807)
- Tax-free distributions from individual retirement accounts for charitable purposes (H.R. 4619), and
- Charitable contributions of food inventory (H.R. 4719).

For more information on these bills and recent actions by the Ways and Means Committee, see our May 29 [WNTS Insight](#).

#### ***The takeaway***

Final action on tax extenders currently is not expected to occur until after the November midterm Congressional elections.

As noted above, Congress must reconcile differences between the House and Senate on expired tax provisions before any final legislation can be sent to the White House for action by President Obama.

## ***Let's talk***

For a deeper discussion of how this might affect your business, please contact:

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