

WEALTH PRESERVATION AND TAX PLANNING ALERT

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Proposed American Jobs Act of 2011

On September 12, 2011, President Obama submitted legislative text and a section-by-section summary of the proposed *American Jobs Act of 2011* to Congress. The *American Jobs Act of 2011* contains a number of economic provisions and tax benefits meant to stimulate job growth in the United States. Set forth below is a summary of some of the proposed tax benefits made available to business and individuals, as well as some of the provisions that would be implemented to raise the revenue to support the tax relief provided by the proposed American Jobs Act of 2011.

Proposed Temporary Payroll Tax Relief for Businesses

- **For calendar year 2012**, there will be a 3.1% reduction in the employer's portion of the Old Age, Survivors and Disability Insurance (OASDI) payroll tax (i.e., the Social Security tax) from 6.2% to 3.1%. This reduction applies to up to \$5,000,000 of wages that are paid by the employer, who can be a for-profit business or a tax-exempt organization (excluding Federal, State and local government employers who are not State colleges or universities). The reduction is not available with respect to household workers. Under this proposed provision, eligible employers may benefit from up to a maximum of \$155,000 in payroll tax relief.
- **For wages paid to employees starting on October 1, 2011 through December 31, 2012**, a proposed payroll tax credit would be made available to businesses that fully offsets the employer's portion of the Old Age, Survivors and Disability Insurance (OASDI) payroll tax (i.e., the Social Security tax) that related to increases in wages from the corresponding period of the prior year. The employer's portion of the OASDI payroll tax is currently 6.2% (proposed to be reduced to 3.1% on the first \$5,000,000 of wages paid in 2012). The credit would be available on up to \$50,000,000 of an employer's increased wages.

Other Proposed Temporary Tax Relief for Businesses

- **For calendar year 2012**, businesses would be entitled to deduct 100% of the cost of "qualified property" placed in service during the calendar year 2012. Under current law the 100% deduction is scheduled to expire by year-end 2011. [Under current law, businesses have the option to deduct 50% of the cost of qualified property placed in service by year-end 2012 (or in 2013 for certain longer-lived and transportation property)].
- Proposes to increase from \$4,800 to up to \$9,600 per employed veteran the maximum tax credit available to businesses that hire veterans who have been unemployed for at least 6 months and have a service-connected disability.
- Proposes to create two new hiring credits when businesses (including tax-exempt entities and public universities) hire veterans. A proposed tax credit of up to \$2,400 per employed veteran would be available to businesses that hire veterans who have been unemployed for 4 weeks. A proposed second tax credit of up to \$5,600 per employed veteran would apply to businesses that hire veterans who have been unemployed for at least 6 months.

Proposed Temporary Employee (and Self-Employed) Payroll Tax Cut

- **For calendar year 2012**, there will be 1.1% reduction in the **employee's** portion of the Old Age, Survivors and Disability Insurance (OASDI) payroll tax (i.e., the Social Security tax) from 4.2% to 3.1% - the employee's payroll tax was previously reduced from 6.2% to 4.2% by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. Under current law, the employee's 4.2% payroll tax is scheduled to expire at the end of this year

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and increase to 6.2%. The Proposed American Jobs Act of 2011 would extend the reduced employee's payroll tax and further reduce it to 3.1% for 2012.

- **For calendar year 2012**, self-employed individuals will also benefit from reductions in the employer and employee shares of the OASDI payroll tax. A total payroll tax rate of 6.2% (3.1% employer portion and 3.1% employee portion) will apply to the first \$5,000,000 of self-employment earnings. A total payroll tax rate of 9.3% will apply to self-employment earnings that exceed \$5,000,000 (6.2% employer portion and 3.1% employee portion).

Proposed Offsets to Raise Revenue to Support the Hiring Incentives Provided by the American Jobs Act of 2011

- **For taxable years beginning on or after January 1, 2013**, taxpayers with adjusted gross income of \$200,000 or more (\$250,000 for married taxpayers filing jointly) would be subject to limitations on itemized deductions, above-the-line deductions, and certain exclusions so that the amount of tax that may be offset by all such deductions and exclusions is limited to 28%. Examples of itemized deductions include home mortgage interest, state and local taxes, and charitable contributions. Examples of above-the-line deductions include moving expenses and a deduction for higher education expenses. Examples of exclusions which would be affected include municipal bond interest and certain foreign earned income earned by US taxpayers abroad.

- **For taxable years beginning on or after January 1, 2013**, certain managers of investment funds and real estate partnerships would be required to pay tax at ordinary income rates, also subject to self-employment tax, on carried interest received from the partnership.
- **For taxable years beginning on or after January 1, 2013**, the useful life of general aviation aircraft would be increased from 5 years to 7 years for depreciation purposes.
- **For taxable years beginning on or after January 1, 2013**, several oil subsidies would be repealed.

The above summary is not intended to be an exhaustive explanation of the tax provisions of the proposed *American Jobs Act of 2011*, but rather is intended to highlight some of the more important provisions that are being proposed. If the *American Jobs Act of 2011* becomes law, we will be issuing a Tax Alert discussing in more detail the final provisions contained in such legislation. ■

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