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S. 2237 – Small Business Jobs and Tax Relief Act

Noteworthy

- **Floor Situation:** On Tuesday, July 10, the Senate will vote on the motion to invoke cloture on the motion to proceed to S. 2237. If cloture is invoked and the Senate moves to the bill, it is anticipated that the amendment tree will be filled.
- **Background:** On March 26, 2012, Senator Reid introduced S. 2237. The bill was placed on the Senate Calendar via Rule 14 on March 27. On May 16, President Obama pushed for support of a tax proposal identical to S. 2237. Senator Reid moved to proceed to the bill on June 25.
- **Executive Summary:** S. 2237 would provide a tax credit equal to 10 percent of the increase in an employer's payroll from 2011 to 2012, but not necessarily due to additional employees. The bill would provide a one-year extension of 100 percent bonus depreciation. The bill would decrease revenue by \$28.5 billion over 10 years and adds \$741 million in new spending. S. 2237 is unconstitutional since it is a Senate bill affecting revenue.

House Action

On March 21, 2012, House Majority Leader Cantor introduced the Small Business Tax Cut Act, H.R. 9. Five days later, Senator Reid introduced S. 2237. The House bill would allow a 20 percent tax deduction of active business income for any small business with fewer than 500 employees. This would apply to small businesses taxed through the individual tax code and C corporations that pay taxes through the corporate tax code. The House bill would decrease revenue by [\\$45.9 billion](#) over 10 years. H.R. 9 passed the House by a vote of [235-173](#) on April 19, 2012.

Bill Provisions

Section 1 – Short Title

The bill is the “Small Business Jobs and Tax Relief Act.”

Section 2 – Temporary Tax Credit for Increased Payroll

This section provides a temporary tax credit for increased employer payrolls.

Qualifying employers: Any employer may qualify for this tax credit except for federal, state, and local governments. Public colleges and universities qualify for this tax credit.

Tax credit: A qualifying employer may claim a tax credit if the employer increased its payroll expenses in 2012 compared to 2011. The tax credit will be equal to 10 percent of the increase in payroll expenses. For example, if a business paid \$1 million in payroll for 2011, and paid \$1.1 million in payroll for 2012, under this bill they would be able to claim a tax credit of \$10,000 (10 percent of the \$100,000 increase). The bill limits the maximum possible tax credit to \$500,000.

The tax credit is taxable, however. Thus, the 10 percent credit may be as little as 6.5 percent after taxes. This is unlikely to effectively spur the permanent new employment America needs.

If a business has other federal tax credits determined by wages or compensation, the credit allowed by S. 2237 will be reduced by the amount of such tax credits. Thus, an employer claiming a research and development (R&D) tax credit for wages paid to a scientist may lose some or all of the benefit provided by the Democrats’ proposed bill.

The bill also applies this tax credit to U.S. possessions.

Section 3 – Extension of Allowance for Bonus Depreciation for Certain Business Assets

This section extends for an additional year the 100 percent bonus depreciation that expired at the end of 2011. The extension is through 2012 for most property. For certain property that has a recovery period of more than 10 years or is transportation property or aircraft, bonus depreciation is extended through 2013. The bill also expands the ability of businesses to use their alternative minimum tax credit in lieu of bonus depreciation.

Administration Position

On May 8, the White House included the two provisions of this bill in its “[to do list](#)” for Congress. No Statement of Administration Policy is available.

Cost

According to the Joint Committee on Taxation, the bill will decrease revenue by \$28.5 billion over 10 years – a decrease of nearly \$75 billion from 2012 to 2013, with a revenue increase after that. The bill includes \$741 million in new spending. The bill is not offset.

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