

TAX CHANGES FOR FARMING, CONSERVATION, FUEL PRODUCTION, AND OTHERS

The recently enacted Heartland, Habitat, Harvest, and Horticulture Act of 2008 ("Farm Act") contains a package of various tax changes including specialized tax breaks for the farming industry, conservation provisions, and new and modified credits related to the production of certain fuels. This is a summary of the key tax provisions of the Farm Act:

FARMING

- A new tax credit is created for agricultural chemicals security. The new law provides retailers of agricultural products and chemicals and manufacturers, formulators, or distributors of certain pesticides a business tax credit for 30% of the costs for the protection of such chemicals or pesticides. Such protection costs include employee security training and background checks, installation of security equipment, and computer network safeguards. The credit has a \$2 million annual limit and a per facility limitation of \$100,000 (reduced by credits received for the five prior tax years). This credit is effective for expenses paid or incurred after May 22, 2008 and before Jan. 1, 2013.
- The amount of farming losses (other than those arising because of fire, storm losses, etc.) that a taxpayer may use to reduce other non-farming business income is limited for certain taxpayers.
- The farm optional method and nonfarm optional method for computing net earnings from self-employment are modified so that electing taxpayers may pay more in optional self-employment taxes and thus become eligible for Social Security benefits.
- The Commodity Credit Corporation ("CCC") is required to provide the Internal Revenue Service and the farmer with information returns showing the amount of market gain the farmer realizes when he or she repays a CCC market assistance loan.

CONSERVATION

- Conservation reserve payments made after 2007 are not subject to self-employment tax if received by an individual who is getting Social Security retirement or disability payments.
- The favorable tax treatment of capital gain property donated for qualified conservation is extended for two years (through 2009).
- A new deduction is allowed for endangered species recovery expenses incurred after 2008.
- There is a one-year reduction in the tax rate for a corporation's qualified timber gain. For tax years ending after May 22, 2008 and beginning on or before May 22, 2009 a 15% alternative tax applies on the portion of a corporation's taxable income that consists of qualified timber gain (or, if less, the net capital gain) for a tax year. In addition the rules for real estate investment trusts holding timber property are liberalized temporarily.

FUEL PRODUCTION

- A new tax credit is created for the development of cellulosic biofuels, which are biofuels produced from agricultural waste, wood chips, switch grass and other non-food feedstocks. This credit, available for fuel produced after 2008 and through 2012, is a nonrefundable income tax credit for each gallon of qualified cellulosic fuel production of the producer for the tax year.
- The 51¢ per-gallon incentive for ethanol is reduced to 45¢ per gallon for calendar year 2009 and thereafter. This reduction is subject to an exception geared towards ethanol production.

MISCELLANEOUS ITEMS

- Qualifying mutual ditch, reservoir, or irrigation company stock may be eligible for like-kind exchange treatment.
- For property placed in service after 2008 and before 2014, all racehorses are classified as three-year property for depreciation purposes, regardless of their age.
- Temporary assistance to victims of the 2007 Kansas tornado disaster is provided, including increased ability to deduct personal losses, increased business expense deductions, and help for affected businesses that continued to pay their employees after the disaster.
- For large corporations (those with assets of at least \$1 billion), estimated tax payments due in July, August, and September of 2012 are increased by 7.75% of the payment otherwise due, and the next required payment is reduced accordingly.

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