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■ Highlights ■

IRS relaxes substantiation requirements for charitable contributions made after Sept. 10, 2001 and before 2002: Because of the unique circumstances of the September 11th tragedy, IRS has eased substantiation requirements for taxpayers who made charitable contributions after Sept. 10, 2001 and before 2002.

Client Letters explain overall impact of Job Creation and Worker Assistance Act of 2002 and its retroactive depreciation changes: Here are two Client Letters that tax practitioners can use to brief clients on the Job Creation and Worker Assistance Act of 2002. The first is an overview of the 2002 Act. The second explains the retroactively effective depreciation changes in the 2002 Act.

RIA's Complete Analysis of the Job Creation and Worker Assistance Act of 2002 Is Available Now: For complete coverage of the 2002 Tax Act signed into law on March 9, 2002, see *RIA's Complete Analysis of the Job Creation and Worker Assistance Act of 2002*. It is the most comprehensive, authoritative, and timely analysis of the 2002 tax law available. To view the Complete Analysis, just click on the RIA Tax Watch icon on the blue side toolbar.

RIA's Highlights of the Job Creation and Worker Assistance Act of 2002 now available on Checkpoint: RIA's new Tax Planning and Practice Guide, *Highlights of the Job Creation and Worker Assistance Act of 2002 (PL 107-147)*, is now available on Checkpoint. The 2002 Act, signed into law on March 9, 2002, carries business economic stimulus provisions (many retroactively effective), relief provisions for Liberty-Zone businesses affected by the 9/11 terrorist attacks, extensions of expired or soon-to-expire tax breaks, some changes for individuals, and technical corrections.

Route to: _____, _____, _____

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IRS relaxes substantiation requirements for charitable contributions made after Sept. 10, 2001 and before 2002

Notice 2002-25, 2002-15 IRB; IR 2002-38

Because of the unique circumstances of the September 11th tragedy, IRS has eased substantiation requirements for taxpayers who made charitable contributions after Sept. 10, 2001 and before 2002.

Background. A deduction is allowable for a charitable contribution of \$250 or more only if the donor obtains a written acknowledgment from the donee organization on or before the date he files his return reporting the contribution or on or before the due date (including extensions) of the return, whichever comes first. (Code Sec. 170(f)(8))

A contemporaneous written acknowledgment is a timely written statement from the donee organization that contains the following information:

... the amount of cash and a description (but not value) of any property other than cash contributed;

... whether the donee organization provided any goods or services in consideration for the property contributed; and

... a description and good faith estimate of the value of any goods or services provided by the donee organization in consideration for the property contributed.

The donee organization may provide a paper copy of the acknowledgment to the donor, or the donee organization may provide the acknowledgment electronically, such as in an e-mail addressed to the donor.

Charities swamped. IRS has become aware that, due to the overwhelming number of charitable contributions made in the wake of September 11th, many donee organizations are unable to supply donors with the required acknowledgments in a timely manner.

Partial relief for affected donors. Because of this unique situation, IRS is providing the following partial relief: A donor that contributed \$250 or more of cash or other property after Sept. 10, 2001, and before Jan. 1, 2002, has until Oct. 15, 2002 to obtain the required written acknowledgement from charities or get evidence of a good-faith effort to obtain it. An example of a good faith effort is sending the donee organization a letter or e-mail requesting a written acknowledgment.

A copy of the letter or e-mail is evidence of a good faith effort.

Observation: This means that a donor can obtain the written acknowledgement or get evidence of a good-faith effort to get it after he files his return, as long as he does so by Oct. 15, 2002. There is no need to get a return filing extension to benefit from the relief rule.

IRS reminds donors that they must comply with all of the other requirements of Code Sec. 170 in order to be allowed charitable contribution deductions (see Weekly Alert, 10/28/1999). For example, donors must maintain records to substantiate the fact and amount of a transfer to a qualified charity within the tax year.

References: For substantiating charitable contributions, see Federal Tax Coordinator 2d and RIA's Analysis of Federal Taxes: Income at ¶ K-3900; U.S. Tax Reporter: Income at ¶ 1704.50; Tax Desk at ¶ 334,001; RIA's Tax Guide at ¶ 19325.

Client Letters explain overall impact of Job Creation and Worker Assistance Act of 2002 and its retroactive depreciation changes

Tax practitioners can use the following Client Letters to brief clients on the Job Creation and Worker Assistance Act of 2002. The first Client Letter carries an overview of the 2002 Act. The second explains the retroactively effective depreciation changes in the 2002 Act.

Client Letter highlights tax changes in the Job Creation and Worker Assistance Act of 2002

Dear Client:

I am writing to tell you that there's a new law on the books carrying a number of important tax changes. The "Job Creation and Worker Assistance Act of 2002," signed into law by the President on March 9, mostly benefits businesses and professional practices. What's more, several changes are retroactively effective and may affect returns that have already been filed as well as those that are about to be filed for tax year 2001, and 2000 returns of fiscal year filers with tax years ending Sept. 30, Oct. 31., or Nov. 30 of 2001. There are several changes affecting individuals as well.

Here's what you need to know right now about this important new legislation:

Tax breaks for businesses and professional practices include the following changes:

... An additional 30% first-year depreciation write-off for most types of new nonrealty property acquired after Sept. 10, 2001 and before Sept. 11, 2004. For example, if a business or practice bought a new qualifying \$10,000 machine normally depreciated over five years, the first-year writeoff under the new law is \$4,400. Under prior law, the maximum first-year writeoff is only \$2,000. The extra 30% first-year writeoff also applies to certain types of interior improvements to leased nonresidential realty (such as an office building or factory).

... The first-year depreciation dollar cap on new luxury autos bought for business purposes is boosted by \$4,600, effective for autos acquired after Sept. 10, 2001 and before Sept. 11, 2004. For qualifying autos bought after Sept. 10, 2001 and before 2003, that means a maximum first year writeoff of \$7,660 (the regular \$3,060 first year dollar cap plus \$4,600). The extra writeoff applies only if the auto is used more than 50% for business, and is fully available only if the auto is used 100% for business. The net result is a larger up-front deduction for those who buy new autos for use in their business or practice.

... The net operating loss (NOL) carryback period is increased from two or three years to five years, for NOLs arising in tax years ending in 2001 or 2002. This change could create additional refunds for businesses suffering losses. Related changes help businesses with NOLs avoid alternative minimum tax problems.

... Many tax breaks that expired at the end of 2001 are retroactively reinstated and extended for two years. These include the work opportunity tax credit and the welfare-to-work credit.

... Businesses operating in lower Manhattan that suffered as a result of the Sept. 11 terrorist attacks are given a package of five new tax breaks.

Tax changes for individuals include the following provisions:

... A two-year reprieve from an onerous rule that would have reduced an individual's personal nonrefundable credits (such as education credits) because of the alternative minimum tax (or AMT). Under the new law, for 2002 and 2003, you'll be able to use

your personal nonrefundable credits to offset both your regular tax liability and your AMT liability.

... A crackdown on S corporation shareholders prevents them from increasing the basis of their stock in the entity (and thereby being able to deduct suspended losses) by debt that's forgiven and excluded from the corporation's income when the entity is bankrupt or insolvent.

... A number of changes, mostly favorable, deal with the enhanced retirement savings opportunities created by the 2001 tax law. For example, a change makes it clear that a person can make "catch-up" contributions any time during the year he or she turns age 50, not just after the calendar date he or she attains age 50.

... For 2002 and 2003, there's a new up-to-\$250 deduction for educators below the college level who spend their own money on books and other materials they use in the classroom. The new deduction is available to itemizers and non-itemizers.

Please keep in mind that I've described only the highlights of the most important changes in the new law. Give me a call at your earliest convenience for more details on how you may be affected, and whether immediate action is needed to take advantage of the new law's tax breaks.

Sincerely,

Client Letter explains retroactively effective depreciation changes in the Job Creation and Worker Assistance Act of 2002

Dear Client:

I am writing to tell you of important changes for business and professional clients in the recently enacted Job Creation and Worker Assistance Act of 2002. In an effort to stimulate the economy, Congress is giving taxpayers an extra 30% first-year depreciation writeoff for most new capital assets (other than buildings) acquired after Sept. 10, 2001, and before Sept. 11, 2004, and placed in service before 2005 (before 2006, for certain property with longer production periods). In effect, this additional writeoff means that you can recover more of the cost of a business asset in the year you place it in service.

What qualifies for the extra 30% depreciation writeoff? Most types of new, nonrealty assets, such as business machines, computers, most types of com-

puter software, many types of production equipment, trucks, trailers, and business furniture.

New business autos also qualify for a bigger first year writeoff. The first-year depreciation dollar cap on new autos bought for business purposes is boosted by \$4,600, effective for autos acquired after Sept. 10, 2001 and before Sept. 11, 2004. For qualifying autos bought after Sept. 10, 2001 and before 2003, that means a maximum first year writeoff of \$7,660 (the regular \$3,060 first year dollar cap plus \$4,600). The extra writeoff applies only if the auto is used more than 50% for business, and is fully available only if the auto is used 100% for business.

Taxpayers also are entitled to an extra 30% depreciation writeoff for qualified leasehold improvements. In general, these are interior improvements made under a lease to commercial property (such as an office building or warehouse), and placed in service more than three years after the building was first placed in service. Certain structural improvements don't qualify, and neither do expansions. Additionally, the improvements generally must be acquired after Sept. 10, 2001, and before Sept. 11, 2004, and placed in service before 2005.

These depreciation changes are retroactively effective (that is, they apply to qualifying new property acquired after Sept. 10, 2001). As a result, returns that have already been filed for tax year 2001 (as well as 2000 returns of some fiscal-year businesses) will have to be amended to take advantage of the additional writeoff. However, under some circumstances, a taxpayer may be better off not claiming the extra first-year depreciation deduction. Finally, note that our firm may have to file extensions for some 2001 re-

turns, in order to give us time to analyze how our clients can make the most of the new law changes.

Please contact our offices for more details on how you are affected by the Job Creation and Worker Assistance Act of 2002.

Sincerely,

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In Brief

Here are the latest developments, in Code Section Order

Code Sec. 7402

District court jurisdiction—violation of automatic stay—receivership actions.

District court suggested that bankruptcy court withdraw its order

enjoining district court-appointed receiver from filing motions concerning administrative taxes in district court, and ordered receiver to bring all matters it deemed appropriate before district court for resolution: case law showed district court had authority to construe au-

tomatic stay; and bankruptcy court lacked authority to enjoin receiver's litigation in or interfere with district court's jurisdiction over receivership, or to declare district court's rulings void. (*In Re: Indian Motorcycle Manufacturing Inc.*, DC CO, 89 AFTR 2d ¶2002-567)