TAX ALERT

The Construction Contractors PATH

The tax path for the construction contractor is one that is ever-winding and full of twists and turns. But the path just became a tad bit straighter with the Protecting Americans from Tax Hikes Act of 2015 ("PATH") which was signed into law by President Obama on December 18th. The Act permanently extends several income tax benefits the construction contractor effectively utilizes in year-end income tax planning.

While the PATH extends a number of income tax friendly benefits, of great interest to the construction community are the following:

- The Section 179 annual expensing limitation of $500,000, which phased out once a taxpayer hits and exceeds $2 million in asset acquisitions, is permanent. This is a huge change considering without the extenders the enhanced expensing limit was slated to drop down to $25,000 with a $200,000 ceiling.

- Accelerated 15 year depreciable life for qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property is also made permanent.

- The PATH also extends 50% first-year bonus depreciation for two years so that it applies to qualified property acquired and placed in service before January 1, 2018. For subsequent years the bonus depreciation provision will reduce on a sliding scale down to 40% in 2018, 30% in 2019, with bonus depreciation completely phased out beginning in 2020. PATH also provides first-year bonus depreciation benefits as it applies to 15 year property as mentioned above.

- While it's something most contractors have a tough time getting their head around, PATH also extends the benefits of research and development tax credits. Under the new law, the credit is retroactively reinstated to January 1, 2015, while also making the R&D tax credit permanent, which is waged based and tied to activities a contractor would undertake to improve their construction processes.

The Construction Contractors PATH (cont.)

The aforementioned are commonly discussed within the construction community during year end income tax planning. There are other provisions which were extended under PATH as well which the construction contractor should consider:

- Section 179D deduction for the cost of energy efficiency improvements to commercial property has been extended through 2016;
- Extension of the solar tax credit through 2022, however phasing out commences in 2020;
- The credits a taxpayer who owns a facility producing energy from certain renewable sources have also been extended through 2016;
- Have a small business? Considering selling the stock? The gain from the disposition of qualified small business stock acquired may be excluded;
- Any distributions from retirement plans by individuals age 70-1/2 which are contributed to a charitable foundation/purpose will continue to receive tax-free treatment.
- Ability to select sales tax in lieu of state income taxes as an itemized deduction so that the taxpayer may receive the greater benefit.

While the income tax considerations as it relates to the construction contractor are highly specialized and overwhelming, the PATH has cleared up a bit. The provisions discussed above have taken some of the uncertainty out of the equation.

If you would like to discuss how these changes and new rules will impact your year-end tax planning, please contact:

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