Will Your Favorite Tax Benefit Expire?

Article Summary:
- Expiring Tax Provisions
- Personal Provisions
- Business Provisions
- Will Congress Act?

More than 50 tax provisions that Congress routinely extends on a yearly basis expired at the end of 2014. The big problem is, each year they are extending the provisions later and later in the year, creating uncertainty for taxpayers on whether they can depend on these tax incentives or not. This makes tax planning unclear and leaves taxpayers wondering about their projected tax liability.

For 2014, Congress waited almost to the end of the year to apply many of the provisions to the 2014 tax year. This was not only a problem for taxpayers but also for the IRS, which needed to adjust its forms and tax filing software at the last minute and actually had to delay the start of the tax season.

Although there were serious discussions among some members of Congress in the spring related to passing an extender bill, those discussions withered away with the summer heat and little has been discussed recently about either making some of the provisions permanent or extending some or all of them for another year. So whether we will have extender legislation and, if we do, what will be included in that legislation is up in the air.

So you may wish to review the expiring provisions to see how you will be affected if they are not extended. Each of these tax benefits expired at the end of 2014 and will not apply in 2015 unless Congress acts. Although more than 50 provisions are expiring, the list below only includes those that most likely will impact individuals and small businesses:

- **Teachers' Above-the-Line Expense Deduction** – Elementary and secondary teachers have been allowed to deduct up to $250 for classroom supplies without itemizing their deductions. As an alternative, these teachers can deduct these expenses as a charitable itemized deduction if they work for a public school or charitable organization and obtain the required documentation verifying the expenses.
- **Principal Residence Acquisition Debt Forgiveness Exclusion** - When a lender forgives debt, the amount of the debt forgiven is income to the borrower; and, although the law allows a taxpayer to exclude that debt relief income to the extent the taxpayer is insolvent, many taxpayers saddled with this problem were not insolvent. To alleviate that situation, Congress passed a law allowing debt relief income from the discharge of qualified principal residence acquisition debt to also be excluded from one's income. This exclusion does not apply to forgiven equity debt income.
- **Excludable Commuter Transportation and Transit Passes** – The tax law allows an employer to reimburse, tax-free, an employee for qualified parking, certain commuter transportation and transit passes. For several years now, the monthly maximum has been the same for all three ($250 in 2014). However, the nontaxable amount of commuter transportation and transit passes will drop to $130 in 2015 if the higher deduction is not extended.

- **Mortgage Insurance Premiums** – A temporary provision has been allowing lower-income taxpayers to deduct mortgage insurance premiums on contracts in connection with acquisition indebtedness on the taxpayer's principal residence.
- **General Sales Tax Deduction** – This temporary provision allows taxpayers to take a deduction for state and local general sales and use taxes in lieu of a deduction for state and local income taxes. The big losers here will be residents of states that do not have a state income tax; these taxpayers will end up without either deduction if the provision is not extended.
- **Qualified Conservation Contributions** – This special rule for contributions of capital gain real property made for conservation purposes allowed qualified conservation contributions to be deducted up to 50% of a taxpayer's AGI (100% for qualified farmers and ranchers). Without an extension, the allowable contribution will be limited to 30% of the taxpayer's AGI. The portion of the contribution that exceeds the AGI limitation is carried over for up to five future years.
- **Above-the-line Tuition Deduction** – This deduction allows moderate and low-income taxpayers to take an above-the-line deduction (maximum $4,000) for qualified higher education tuition and related expenses. As an alternative, most taxpayers will qualify for the American Opportunity Tax Credit.
- **IRA to Charity Contribution** – A temporary provision allowed taxpayers age 70½ or older to directly transfer up to $100,000 from an IRA to a qualified charity without including the distribution in income, and it would also count towards their required minimum distribution. Although no charitable deduction is allowed, the benefit is the same as (or even better than) taking a taxable distribution and then getting a charitable deduction. It also keeps the donor's AGI lower for purposes of all the AGI limitations built into the tax laws. It is especially helpful for those with Social Security income that becomes taxable because of an IRA distribution. As a hedge, in case this provision is extended, act as if it has been.
- **Bonus Depreciation** – For the past several years, as an incentive for businesses to invest in equipment and boost the economy, this provision allowed businesses to take bonus depreciation in the first year the property is placed in service. At one time it was 100%, but was 50% in 2014. The impact here, if the provision is not extended, is that equipment will have to be depreciated over the equipment's useful life, generally 5 or 7 years. Where applicable, the Sec 179 expense deduction can be used, but it too is reduced drastically without extension (see below).
- **Sec 179 Expense Deduction** – As part of the economic recovery efforts of the last few years, Congress temporarily increased the Sec. 179 expensing limit from $25,000 per year to $500,000, which it has been since 2010. The property cost limit phaseout threshold was also increased to $2 million. Without extension the maximum deduction will return to $25,000 with a $200,000 cost limit phaseout.
- **Qualified Real Property Sec 179 Deduction** – For years 2010 through 2014, the definition of qualified property for purposes of the Sec 179 deduction was temporarily amended, with some limitations, to include:
    - Qualified leasehold improvement property,
    - Qualified restaurant property, and

- Qualified retail improvement property

  Thus, without an extension, these properties will no longer qualify for the Sec 179 expense deduction.

- **15-year Life** – A temporary provision allows 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements. Without an extension, these items will have to be depreciated over a 31-year life.

Where Congress left off this summer was with a Senate bill that would extend the provisions for 2015 and 2016 and House legislation that would only extend a few of the provisions for 2015 only. With the partisan battles going on in Congress, the distraction of the upcoming elections and the holiday recesses just around the corner, what will happen to the extender legislation is anyone's guess at this point. If history is an indicator, passage will come very late in the year.

If you have any questions, please call.