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Small Business Jobs Act of 2010

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On September 27th, the Small Business Jobs Act of 2010 was signed into law by President Obama. The name given to this legislation can be misleading because the legislation contains many tax provisions affecting large and small businesses alike. There are, however, specific provisions that will have a significant impact on the real estate industry.

Perhaps the most noteworthy addition to the law is the ability to elect to expense "qualified real property" under Section 179 of the Internal Revenue Code for tax years beginning in 2010 and 2011. Prior to this enactment, the election was limited to personal property. "Qualified real property" is comprised of real property meeting the definition of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property under previous depreciation provisions.

The annual limit per taxpayer for Section 179 expensing for tax years beginning in 2010 and 2011 is \$500,000, of which \$250,000 may be qualified real property. Section 179 amounts carried forward to tax years beginning after 2011 cannot be attributable to qualified real property. To the extent that a Section 179 carryover amount is attributable to qualified real property, the IRC will treat that amount as if it were placed in service in the first tax year beginning after 2011.

Also contained within the Small Business Jobs Act of 2010 is the reporting requirement specific to persons who receive rental payments after December 31st. Information returns will be required to be filed with the IRS and service providers for payments of more than \$600 made for rental property expenses.

With 2010 drawing to a close without any definitive sign of economic recovery, coupled with the recent election results, congress may pass further legislation in an effort to spur an upturn in the economy.

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