

American Recovery and Reinvestment Act of 2009

Select Tax Provisions Supported by NAIOP

Extension of Bonus Depreciation. Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009. *This proposal is estimated to cost \$5.074 billion over 10 years.*

Delayed Recognition of Certain Cancellation of Debt Income. Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income ("CODI") is the excess of the old debt's adjusted issue price over the repurchase price. Certain businesses will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. *This proposal is estimated to cost \$1.622 billion over 10 years.*

5-Year Carryback of Net Operating Losses for Small Businesses. Under current law, net operating losses ("NOLs") may be carried back to the two taxable years before the year that the loss arises (the "NOL carryback period") and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the bill would extend the maximum NOL carryback period from two years to five years for small businesses with gross receipts of \$15 million or less. *This proposal is estimated to cost \$947 million over 10 years.*

Extension of AMT relief for 2009. The bill would provide more than 26 million families with tax relief in 2009 by extending AMT relief for nonrefundable personal credits and increasing the AMT exemption amount by \$70,950 for joint filers and \$46,700 for individuals. *This proposal is estimated to cost \$69.759 billion over 10 years*

Extension of Enhanced Small Business Expensing. In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008

to \$800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009. *This proposal is estimated to cost \$41 million over 10 years.*

Full Summary of Tax Provisions in Stimulus Package:

<http://waysandmeans.house.gov/media/pdf/111/arra.pdf>

Spending Provisions – Infrastructure/Energy

Highway Infrastructure:

- \$27.5 billion for highway and bridge construction projects and \$1.5 billion for competitive grants to state and local governments for transportation investment.

Transit:

- **New Construction:** \$750 million for Capital Investment Grants for new commuter rail or other light rail systems to increase public use of mass transit and to speed projects already in construction.
- **Upgrades and Repair:** \$750 million to modernize existing transit systems, including renovations to stations, security systems, computers, equipment, structures, signals, and communications.
- **Transit Capital Assistance:** \$6.9 billion to purchase buses and equipment needed to increase public transportation and improve intermodal and transit facilities.
- **Amtrak:** \$1.3 billion to improve the speed and capacity of intercity passenger rail service. The Department of Transportation's Inspector General estimates the North East Corridor alone has a backlog of over \$10 billion.
- **High Speed Rail and Intercity Passenger Rail Grants:** \$8 billion to advance the development of high speed rail and to improve the intercity passenger rail service in corridors across the nation. The States for Passenger Rail Coalition estimates that there are over \$1.5 billion in projects that are ready-to-go.

Energy Efficiency & Conservation Block Grants:

- **\$3.2 billion** will assist states, local governments and Indian tribes in implementing strategies to reduce fossil fuel emissions created as a result of activities within the jurisdictions of the eligible entities and reduce the total energy use. Activities eligible to receive funding include: conducting residential and commercial building energy audits; establishing financial incentives programs for energy efficiency improvements; grants to non-profits organizations to perform energy efficiency retrofits; developing/implementing programs to conserve energy used in transportation; developing and implementing building codes and inspections services to promote building energy efficiency; installing light emitting diodes (LEDs); and

developing, implementing, and installing on or in any government building onsite renewable energy technology that generates electricity from renewable sources.

Brownfields:

- \$100 million for Brownfields competitive grants to address environmental site assessment and cleanup, 25 percent of which are mandated by law to address petroleum contamination. Funds will capitalize revolving funds and provide low interest loans, job training grants and technical assistance to local governments and non-profit organizations. In fiscal year 2008, EPA was able to fund only 37 percent of the applications it received for this program.