

## Tax Extenders—Tax Year 2015

On December 18, 2015, the President signed into law the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). The new law extends several tax provisions retroactive to the beginning of 2015, and also makes some provisions permanent.

The list that follows identifies tax extender items that have been reinstated retroactive to January 1, 2015, along with a brief description of the provision, and the page number where information can be found in *TheTaxBook*.

**Additional Child Tax Credit.** The refundable portion of the Child Tax Credit had an income threshold amount of \$10,000, indexed for inflation. The extender legislation permanently sets the threshold at an unindexed \$3,000, which will allow for a higher credit for taxpayers who qualify. See page 11-7 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Enhanced American Opportunity Tax Credit (Hope Credit).** The American Opportunity Tax Credit (AOTC) is an enhanced version of the Hope Credit, allowing a credit of up to \$2,500 for four years of post-secondary education. The new law makes the enhanced AOTC permanent. See page 12-3 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Enhanced Earned Income Credit (EIC).** As an extender item, the EIC credit amount was temporarily increased for taxpayers with three or more children, and the marriage penalty was reduced by increasing phaseout ranges. The new law makes the enhanced EIC permanent. See page 11-7 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Educator expenses.** The new law makes the adjustment to income for qualified expenses of elementary and secondary school teachers permanent. The law also indexes the current expense cap of \$250 for inflation beginning in 2016. See page 3-4 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**State and local general sales taxes.** The provision allowing an itemized deduction for state and local general sales taxes instead of state and local income taxes on Schedule A, Form 1040, expired and was extended several times in the past. The new law makes the provision permanent. See page 4-8, of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Charitable contributions of IRA distributions.** A qualified charitable contribution (QCD) from an IRA is nontaxable if made directly to an eligible charitable organization. This lowers the taxpayer's AGI, reducing the negative effect of AGI phaseouts. A QCD was dependent on extender legislation in prior years. The new law makes the provision permanent. See page 4-19 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Qualified leasehold improvements, restaurant buildings and improvements, and retail buildings and improvements.** Recovery periods for qualified leasehold improvements, restaurant buildings and improvements, and retail buildings and improvements were temporarily set at 15 years under extender legislation instead of requiring longer recovery periods. The 15-year recovery period for these assets was made permanent. See page 9-10 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Enhanced Section 179 expense.** A temporary Section 179 expense limit of \$500,000 and investment limit of \$2 million before phaseout was made permanent.

**Note:** Beginning in 2016, the \$250,000 cap on the Section 179 expense for qualified real property was eliminated. The provision allowing a Section 179 expense for off-the-shelf computer software was also made permanent. See page 9-6 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Special depreciation allowance.** The provision extends the special depreciation allowance for property acquired and placed in service during 2015 through 2019. The special depreciation percentage is 50% for property placed in service during 2015, 2016, and 2017, and phases down to 40% in 2018 and 30% in 2019. See page 9-9, of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Discharge of principal residence indebtedness.** The provision allowing exclusion from income for discharge of qualified principal residence indebtedness was extended through 2016. See page 14-14 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Itemized deduction for mortgage insurance premiums.** The provision allowing mortgage insurance premiums to be deducted as an itemized deduction on Schedule A of Form 1040 was extended through 2016. See page 4-12 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Tuition and fees deduction.** The provision allowing an above-the-line deduction for tuition and fees paid for the taxpayer, spouse, or dependents and claimed as an adjustment to income, was extended through 2016. See page 12-5 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Nonbusiness energy property.** The credit for purchases of nonbusiness energy property was extended through 2016. See page 11-14 of *TheTaxBook*, 1040 Edition/Deluxe Edition.

**Additional extender items for individuals include:**

- Increased monthly exclusion amount for transportation benefits.
- Charitable contributions of capital gain real property for conservation purposes.
- Exclusion for gain on sale of small business stock.
- Five-year recognition period for built-in gains for S corporations.

**Additional extender items for businesses include:**

- Extension of research and development (R&D) tax credit.
- S corporation basis adjustment from charitable contributions of property.
- Employer wage credit for active duty members of the uniformed services.
- Low-income housing credit rates for non-federally subsidized buildings.
- Military house allowance exclusion for low-income housing tax credit buildings.
- New markets tax credit.
- Work opportunity tax credit.
- Indian employment tax credit.
- Qualified zone academy bonds.
- Race horses as three-year property.
- Seven-year recovery period of motorsports entertainment complexes.

- Accelerated depreciation for business property on an Indian reservation.
- Empowerment zone tax incentives.
- Moratorium on medical device excise tax for sales during 2016 and 2017.
- Alternative fuel vehicle refueling property.
- Credit for energy-efficient home manufacturers.
- Energy-efficient commercial buildings deduction.
- Qualified fuel cell motor vehicles.

## Tax Administration Provisions

**Clarification of enrolled agent credentials.** The new law permits enrolled agents approved by the IRS to use the designation “enrolled agent,” “EA,” or “E.A.” The provision is effective on the date of enactment.

**Partnership audit rules.** The provision corrects and clarifies certain technical issues in the partnership audit rules enacted in the Bipartisan Budget Act of 2015.

**Duty to ensure that IRS employees are familiar with and act in accordance with certain taxpayer rights.** The provision amends the tax code to require the IRS Commissioner to ensure that IRS employees are familiar with and act in accordance with the taxpayer bill of rights. The provision is effective on the date of enactment.

**IRS employees prohibited from using personal email accounts for official business.** The provision prohibits employees of the IRS from using a personal email account to conduct any official business, codifying an already established agency policy barring use of personal email accounts by IRS employees for official governmental business. The provision is effective on the date of enactment.

**Release of information regarding the status of certain investigations.** The provision allows taxpayers who have been victimized by the IRS, for example, through the unauthorized disclosure of private tax information, to find out basic facts, such as whether the case is being investigated or whether the case has been referred to the Justice Department for prosecution. The provision applies to disclosures made on or after the date of enactment.

**Administrative appeal relating to adverse determinations of tax-exempt status of certain organizations.** The provision requires the IRS to create procedures under which a 501(c) organization facing an adverse determination may request administrative appeal to the IRS Office of Appeals. The provision applies to determinations made after May 19, 2014.

**Termination of employment of Internal Revenue Service employees for taking official actions for political purposes.** The provision makes clear that taking official action for political purposes is an offense for which the employee should be terminated. The bill amends the Internal Revenue Service Restructuring and Reform Act of 1998 to expand the grounds for termination of employment of an IRS employee to include performing, delaying, or failing to perform any official action (including an audit) by an IRS employee for the purpose of extracting personal gain or benefit for a political purpose. The provision takes effect on the date of enactment.

**Gift tax not to apply to contributions to certain exempt organizations.** The provision treats transfers to organizations exempt from tax under section 501(c)(4), 501(c)(5), and 501(c)(6) of the tax code as exempt from the gift tax. The provision applies to transfers made after the date of enactment.

**Extend Internal Revenue Service authority to require truncated Social Security numbers on Form W-2.** The provision requires employers to include an “identifying number” for each employee, rather than an employee’s SSN, on Form W-2. This change will permit the Department of the Treasury to promulgate regulations requiring or permitting a truncated SSN on Form W-2. The provision is effective on the date of enactment.