

# 2009 Manufacturing Tax Update



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1) Federal Update

- a) Temporary Additional First Year Allowance for 2009
  - i) The increased Code Sec. 179 expense deduction of \$250,000 has been extended for qualified property placed in service beginning in tax years beginning in 2009.
  - ii) The investment limitation amount of \$800,000 is also extended for qualified property purchased and placed in service in tax years beginning in 2009.
  
  - iii) Qualified Sec. 179 property placed in service beginning in 2010 will go back to the expense limitation of \$125,000 plus an inflation adjustment, and the investment limitation will go back to \$500,000 plus an inflation adjustment.
  
  - iv) Oregon - For 2009, limits are \$125,000 expense limitation and \$500,000 investment limitation.
- b) Bonus Depreciation
  - i) Personal property acquired during 2009 calendar year.
  - ii) No limitation on the amount of deduction.
  - iii) Deduction is equal to 50% of the adjusted basis of the eligible property.
  - iv) Criteria:
    - (1) Tangible property with tax recovery period of 20 years or less, water utility property, computer software, qualified leasehold improvements property.
    - (2) Purchased and placed in service in 2009; exception - certain property with a production period exceeding one year and a cost in excess of \$1 million if placed in service before Jan. 1, 2011.
    - (3) Must be original purchaser of property. (Used property does not qualify for deduction).
    - (4) Property purchased from a related party or self-constructed property for which construction began prior to Jan. 1, 2008 does not qualify.
    - (5) Property used predominantly outside the United States during the tax year does not qualify.
  - v) Deduction is not affected by short taxable years.
  - vi) Election Out
    - (1) Bonus depreciation is not an election. It is required unless a taxpayer makes an election to not use it.
    - (2) "Election out" is made on a class by class basis
  - vii) Limitation on depreciation for luxury automobiles
    - (1) Bonus depreciation of \$8,000 for passenger automobiles to which the 50% additional first-year depreciation deduction applies.
    - (2) Total first year depreciation of \$10,960.

viii) States

- (1) Oregon allows bonus depreciation for 2008, but not 2009.
- (2) Idaho allows bonus depreciation.
- (3) California does not allow bonus depreciation.

c) Domestic Production Deduction

- i) Deduction based on income from production activities within the U.S.
- ii) For taxable years beginning in 2008 and 2009, deduction is 6% of the lesser of qualified production activities income or taxable income
- iii) Deduction increases to 9% for tax years beginning in 2010 and beyond
- iv) Oregon and California do not allow this deduction, while Idaho does

d) Tax Authority Audits

- i) Increasing frequency
- ii) Tier 1 issues
  - (1) Issues with significant impact on at least one industry which are confusing and involve a substantial risk of noncompliance involving large dollar amounts
  - (2) Must be addressed in an examination
  - (3) Issues
    - (a) Domestic Production Deduction (Section 199 deduction)
    - (b) Research credits
    - (c) Foreign earnings repatriation
    - (d) Section 482 cost sharing
    - (e) All listed transactions

2) Oregon Tax Update

- a) House Bills 2649 and 3409, signed by the Governor on July 20, 2009
- b) House Bill 2649 - Individual Income Tax Rates
  - i) Current top individual tax rate is 9%
  - ii) For 2009 through 2011, rates increase
    - (1) Taxable income over \$125,000 (\$250,000 married filing jointly) is now taxed at 10.8%
    - (2) Taxable income over \$250,000 (\$500,000 married filing jointly) is now taxed at 11.0%
  - iii) For 2012 and beyond
    - (1) Taxable income over \$125,000 (\$250,000 married filing jointly) is taxed at 9.0%
    - (2) Taxable income over \$250,000 (\$500,000 married filing jointly) is taxed at 9.9%
  - iv) While lower bracket ranges will be adjusted for inflation, brackets for income over \$125,000 will not be adjusted for inflation
  - v) Penalty or interest attributable solely to the tax rate changes will be waived

- c) House Bill 3405 - Corporate Excise Tax
  - i) Currently, the minimum corporate excise tax is \$10
  - ii) For tax years beginning on or after January 1, 2009, the new minimum taxes are
    - (1) Partnerships and S Corporations, \$150
    - (2) C Corporations - Based on Oregon sales
      - (a) Less than \$500,000, minimum tax of \$150
      - (b) More than \$500,000 but less than \$1 million, minimum tax of \$500
      - (c) More than \$1 million but less than \$2 million, minimum tax of \$1,000
      - (d) More than \$2 million but less than \$3million, minimum tax of \$1,500
      - (e) More than \$3 million but less than \$5 million, minimum tax of \$2,000
      - (f) More than \$5 million but less than \$7 million, minimum tax of \$4,000
      - (g) More than \$7 million but less than \$10 million, minimum tax of \$7,500
      - (h) More than \$10 million but less than \$25 million, minimum tax of \$15,000
      - (i) More than \$25 million but less than \$50 million, minimum tax of \$30,000
      - (j) More than \$50 million but less than \$75 million, minimum tax of \$50,000
      - (k) More than \$75 million but less than \$100 million, minimum tax of \$75,0000
      - (l) More than \$100 million, minimum tax of \$100,000
  - iii) Increase in corporate income tax rates
    - (1) Current tax rate of 6.6%
    - (2) For tax years beginning on or after January 1, 2009 and before January 1, 2011, taxable income in excess of \$250,000 will be taxed at 7.9%, with the remainder taxed at 6.6%
    - (3) For tax years beginning on or after January 1, 2011 and before January 1, 2013, taxable income in excess of \$250,000 will be taxed at 7.6%, with the remainder taxed at 6.6%
    - (4) For tax years beginning on or after January 1, 2013, taxable income in excess of \$10 million will be taxed at 7.6%, with the remainder taxed at 6.6%
- d) Referendums 301 and 302
  - i) Would reverse the effects of House Bills 2649 and 3409
  - ii) Five member Financial Estimate Committee consisting of Secretary of State, State Treasurer, Director of Department of Revenue, Director of the Department of Administrative Services and a local government representative met September 14, 2009 to begin drafting financial impact statements for Referendum 301 and 302. They meet again on October 13, 2009 to finish drafting the financial impact statements.
  - iii) Petitions scheduled to be turned in on Friday, September 25th
  - iv) Election date - January 26, 2010

- 3) Proposals
  - a) Repeal LIFO and Lower of Cost or Market inventory methods
  - b) Current tax rate structure set to expire after 2010 would be permanently extended, except for singles with income over \$200,000 and couples with income over \$250,000
    - i) 36% and 39.6% rates return
    - ii) 20% rate on qualified dividends and capital gains
  - c) Health Care
    - i) If aggregate annual value of employer provided coverage is in excess of \$8,000 for individuals and \$21,000 for families, 35% excise tax imposed on insurers on excess amounts. President's plan would impose a fee rather than an excise tax.
    - ii) \$2,000 limit on flexible spending accounts in cafeteria plans
    - iii) Up to 35% credit in 2011 and 2012 for eligible small businesses (firms with less than 25 employees and average wages below \$40,000) who provide health insurance to their employees, credit of up to 50% of employer cost over two years in 2013 and beyond
  - d) Retirement Savings Initiative
    - i) Simplified guidelines to make it easier for small businesses to set up automatic enrollment in 401(k), and SIMPLE IRA plans
    - ii) Additional option for individuals to roll income tax refunds directly into U.S. savings bonds
    - iii) Simplified guidelines to facilitate conversion of unused sick and vacation time into cash contributions into the employee's retirement plan