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Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. No. 108-27): Summary of Selected Provisions

— by Neil E. Harl* and Roger A. McEowen**

Expense method depreciation

The expense method depreciation annual allowance, which was \$25,000 for 2003, has been increased to \$100,000 effective for taxable years beginning after 2002 and before 2006. The increase is effective for 2003, 2004 and 2005. Thereafter, the limit returns to \$25,000 unless there is further legislation to change the amount. **Act Sec. 202(a), amending I.R.C. § 179(b)(1).**

The phase-out for eligible property is increased to \$400,000 from \$200,000 for taxable years beginning after 2002 and before 2006. The phase-out applies, dollar for dollar, to qualifying property placed in service each year above the phase-out amount. **Act Sec. 202(b), amending I.R.C. § 179(b)(2).**

Off-the-shelf computer software is eligible for expense method depreciation if placed in service in a taxable year beginning after 2002 and before 2006. **Act Sec. 202(c), amending I.R.C. § 179(d)(1)(A)(ii).**

The dollar limit (\$100,000) and the phase-out threshold amount (\$400,000) are adjusted for inflation in calendar years after 2003 and before 2006. **Act Sec. 202(d), amending I.R.C. § 179(b)(5)(A).**

The inflation adjustment is in \$1,000 increments for the \$100,000 amount and \$10,000 increments for the \$400,000 amount. **Act Sec. 202(d), amending I.R.C. § 179(b)(5)(B).**

The 2003 Act excludes air conditioning and heating units from eligibility for expense method depreciation. The legislation also excludes from eligibility property described in I.R.C. § 50(b) (property used outside the United States, property used for lodging, property used by certain tax-exempt organizations and property used by governmental units or foreign persons or entities). **Act Sec. 202(c), amending I.R.C. § 179(d)(1).**

The new law also provides that expense method depreciation elections can be revoked (with respect to any taxable year beginning after 2002 and before 2006) by the taxpayer with respect to any property; the revocation, once made, is irrevocable. **Act Sec. 202(e), amending I.R.C. § 179(c)(2).**

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Bonus depreciation amount

The Act increases the special allowance for eligible property acquired after September 10, 2001, and before September 11, 2004 (the cut-off date before the 2003 amendment) from 30 percent to 50 percent of the income tax basis of eligible property (after expense method depreciation has been claimed). **Act Sec. 201(a), amending I.R.C. § 168(k)(4).**

The increased allowance applies to property the original of which commences with the taxpayer after May 5, 2003 if the property was acquired by the taxpayer after May 5, 2003 and before January 1, 2005 if there was no binding contract for the acquisition of the property in effect before May 6, 2003. If there was a binding contract in effect before May 6, 2003, but not before September 11, 2001, the property remains qualified for the 30 percent allowance previously available.

The property must be placed in service under the new provision before January 1, 2005 except, for property described in I.R.C. § 168(k)(2)(B) (property having longer production periods) before January 1, 2006. **Act Sec. 201(a), amending I.R.C. § 168(k)(4)(B).**

For *passenger automobiles*, which are subject to inflation-adjusted depreciation limits, the increase in the first year allowance for new vehicles under the bonus depreciation rules is boosted from \$4600 to \$7650 with the same effective dates as for the increase from 30 percent to 50 percent of the income tax basis of eligible property. Thus, for new passenger automobiles that are depreciable, the allowable depreciation is \$3060 plus \$7650 or \$10,710 if acquired after May 5, 2003. For new passenger automobiles acquired before May 6, 2003, the limit is \$3060 plus \$4600 or \$7660. The first year limit for used passenger automobiles remains at \$3060. **Act Sec. 201(a), amending I.R.C. § 168(k)(4)(D).**

Under the 2003 Act, an election with respect to any class of property for purposes of bonus depreciation does not apply to all property in the class. **Act Sec. 201(a), adding I.R.C. § 168(k)(4)(E).**

The bonus depreciation amendments apply to taxable years ending after May 5, 2003. **Act Sec. 201(d).**

Capital gains

The 2003 Act reduces the income tax rate on long-term capital gains from 10 percent to five percent for those in the 10 or 15 percent brackets and from 20 percent to 15 percent for those in higher income tax brackets. The reduction applies to both regular tax and alternative minimum tax calculations. For those in the 15 percent income tax bracket, the Act reduces the rate on long-term capital gains to zero for taxable years beginning after 2007 and before 2009 (unless changed in the meantime). **Act Sec. 301(a), amending I.R.C. §§ 1(h)(1), 55(b)(3).**

The provision applies to sales after May 5, 2003, in taxable years ending on or after May 6, 2003. The provision continues through 2007. **Act Sec. 301(d)(1).**

The provision provides for proration for 2003. **Act Sec. 301(c), amending I.R.C. § 1(h)(1).**

The 2003 Act wipes out the eight and 18 percent rates from earlier legislation. **Act Sec. 301(b)(1)(A).**

Dividends

Under the Act, dividends from domestic corporations (either C or S corporations) and qualified foreign corporations are generally

taxed at the same rates as net long-term capital gain for taxable years beginning after December 31, 2002 and beginning before January 1, 2009. This provision applies for purposes of both regular tax and alternative minimum tax purposes. Thus, dividends will be taxed under the provision for 2003 at rates of five and 15 percent. **Act Sec. 302(a), adding I.R.C. § 1(h)(11).**

If a shareholder does not hold a share of stock for more than 60 days during the 120-day period beginning 60-days before the ex-dividend date, dividends on the stock are not eligible for the reduced rates. **Act Sec. 302(a), amending I.R.C. § 1(h)(11)(B)(iii).**

Corporate "penalty" taxes

The 2003 Act reduces the accumulated earnings tax rate (to 15 percent) and the personal holding company tax rate (also to 15 percent) effective in 2003. **Act Sec. 302(e)(5), (6), amending I.R.C. §§ 531, 541.**

Alternative minimum tax

The Act increases the AMT exemption amount for married taxpayers filing a joint return and surviving spouses from \$49,000 to \$58,000 and for unmarried taxpayers from \$35,750 to \$40,250 for taxable years beginning in 2003 and 2004. **Act Sec. 106(a), amending I.R.C. § 55(d)(1)(A), (B).**

Income tax rates

The Act accelerates the reductions in the regular income tax rates in excess of the 15 percent rate. For 2003 through 2005, the regular income tax rates in excess of 15 percent are 25 percent, 28 percent, 33 percent and 35 percent. **Act Sec. 105(a), amending I.R.C. § 1(i)(2).**

Beginning in 2005 and running through 2007, the Act increases the taxable income level for the 10 percent regular income tax rate brackets for single individuals from \$6,000 to \$7,000 and, for married individuals filing jointly from \$12,000 to \$14,000. **Act Sec. 104(a), amending I.R.C. § 1(i)(B)(i).**

The Act increases the size of the 15 percent regular income tax bracket for joint returns to twice the bracket width of the 15 percent regular income tax rate bracket for single individuals for 2003 and 2004. **Act Sec. 102(a), amending I.R.C. § 1(f)(8)(B).**

Standard deduction

The Act increases the basic standard deduction amount for joint returns to twice the basic standard deduction for single returns effective for 2003 and 2004. For taxable years beginning after 2004, the applicable percentages revert to those allowed under pre-Act law. **Act Sec. 103(a), amending I.R.C. § 63(c)(9).**

Child tax credit

The Act increases the child tax credit from \$600 to \$1,000 for 2003 and 2004. After 2004, the credit reverts to pre-Act levels. **Act Sec. 101(a), amending I.R.C. § 24(a)(2).**

For 2003, the increased amount of child credit is paid in advance, supposedly beginning in July, 2003, on the basis of information in each taxpayer's 2002 return filed in 2003. Advance payments are not expected to individuals who did not claim the child credit for 2002. **Act Sec. 101(b), enacting I.R.C. § 6429.**

Corporate estimated tax

Under the Act, 25 percent of corporate estimated tax payments due on September 15, 2003, is not due until October 1, 2003. **Act Sec. 104(a).**