

PKF PERSPECTIVES

JOB CREATION AND WORKER ASSISTANCE ACT OF 2002 SPECIAL INCENTIVES FOR BUSINESSES AND EMPLOYERS

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In the recently-enacted **Job Creation and Worker Assistance Act of 2002** (the "Act"), Congress provided some special benefits to eligible businesses and employers. Here are some of them.

Work Opportunity Credit

Scheduled to expire December 31, 2001, it was extended for all eligible taxpayers for two years. If elected, this provision allows a credit, in lieu of a deduction, of up to 40% of \$6,000 of a targeted-group employee's wages in the first year of employment. (Thus, the maximum credit per employee is \$2,400).

For businesses located in New York City's **Liberty Zone** - defined as **the area south of a continuous line drawn on Canal Street east to East Broadway continuing on East Broadway easterly to and on Grand Street** - the credit is broader. The base for the credit is up to \$6,000 of an employee's wages in each of the calendar years 2002 and 2003 and applies for both regular and alternative minimum tax (AMT) purposes. The new credit offsets AMT without the normal business credit limitations. It covers existing employees, not just new hires. Further, eligible employers need not have employees pre-certified for the credit as do employers beyond the Liberty Zone.



The expanded credit for Liberty Zone employers is subject to the following requirements:

- (a) The targeted group of employees must perform substantially all services in the

Liberty Zone (or elsewhere in New York City if the business was forced to relocate because of physical damage to its workplace as a result of the September 11th terrorist attack).

- (b) The number of employees cannot exceed the number of employees on September 11, 2001 if the qualified business locates outside the zone, but within New York City. Those businesses relocating to or remaining in the Liberty Zone are not subject to this limit.
- (c) Only those businesses employing an average of 200 or fewer employees are eligible for the expanded credit.

Bonus Depreciation

A special depreciation allowance of 30 percent of the adjusted basis of qualified property is available to all businesses under the Act. For any given qualified property, the taxpayer is permitted one 30 percent first-year depreciation allowance.

For businesses located in the Liberty Zone, the 30 percent allowance applies to nonresidential real property and residential rental property but only to the extent the expenditure rehabilitates (or replaces) real property damaged as a result of the September 11th terrorist attack. Other qualified property includes MACRS property with an applicable recovery period of 20 years or less and water utility property. In general, the following criteria must be met to take advantage of the 30 percent allowance:

- In the case of nonresidential real property and residential rental property: The property is acquired after September 10, 2001 and placed in service after that date but before December 31, 2009.

- In the case of other qualified property: The property is acquired after September 10, 2001 and placed in service after that date but before December 31, 2006.
- Used property may constitute qualified property so long as it has not been previously used within the Liberty Zone. (If the acquisition is made as a result of a written binding contract in effect before September 11, 2001, then the property does not qualify for the special allowance.)

Asset Expensing

Liberty Zone businesses also receive a special increase in the expensing of most tangible property under Section 179: Up to **\$59,000** for qualified property purchased and placed in service after September 11, 2001 but before January 1, 2003 and up to **\$60,000** for 2003 through 2006.

Interaction of the rules governing the Section 179 expensing the 30 percent first-year depreciation, and the regular depreciation is illustrated below:

Example 1 - Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs \$1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of \$300,000. The remaining \$700,000 of adjusted basis is recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

Example 2 - Assume that on March 1, 2002, a calendar year taxpayer acquires and places in service qualified property in the Liberty Zone that costs \$100,000. In addition, assume that the property qualifies for the expensing election under Section 179. Under the provision, the taxpayer is first allowed a \$59,000 deduction under Section 179. The taxpayer then is allowed an additional first-year depreciation deduction of \$12,300 based on \$41,000 (30 percent of \$100,000 original cost less the Section 179 deduction of \$59,000) of

adjusted basis. Finally, the remaining adjusted basis of \$28,700 (\$41,000 adjusted basis less \$12,300 additional first-year depreciation) is to be recovered in 2002 and subsequent years pursuant to the depreciation rules of present law.

Accelerated Depreciation for Leasehold Improvements

A business in the Liberty Zone that makes a qualified leasehold improvement after September 10, 2001 but before January 1, 2007 can recover the cost over a **5-year** period (instead of 39 years) using the straight-line method. (Qualified property is described above in the **Bonus Depreciation** section except that the improvement must be placed in service before January 1, 2007.)

Tax-Exempt Bonds

The Act authorizes the issue during calendar years 2002 through 2004 of up to \$8 billion of tax-exempt private activity bonds to finance the construction and rehabilitation of certain nonresidential real property and residential rental property in the Liberty Zone.

Tax-Free Voluntary Conversions

The replacement period for tax-free voluntary conversions in the Liberty Zone has been extended to five years for taxpayers to replace damaged property.



WTC SMALL FIRM ATTRACTION AND RETENTION GRANT PROGRAM

To retain and attract new businesses to New York City, the Empire State Development Corporation (ESDC), in coordination with the New York City Economic Development Corporation (EDC), using funding provided by the U.S. Department of Housing and Urban Development, will offer certain eligible businesses grants tied to their employee base.

The objective is to help retain and create jobs in New York City by assisting businesses that employ 10 to 200 individuals within the eligible areas that renew, extend, or sign new leases in Lower Manhattan.

\$80 million has been preliminarily allocated to fund the Program.

Location Definitions

Eligible Area: That area within the Borough of Manhattan bounded on the north by the centerline of Canal Street, from the Hudson River to Rutgers Street, then southeast along the centerline of Rutgers Street and continuing along the centerline of Rutgers Slip to the East River.

Restricted Zone: That area within the Eligible Area that is bounded by Chambers Street (including buildings with primary entrances on the north side of Chambers Street), Broadway (including buildings with primary entrances on the east side of Broadway), and Rector Street (including buildings with primary entrances on the south side of Rector Street) as extended due west to the Hudson River.

October 23 Zone: That area within the Restricted Zone bounded by the centerline of the following streets: Chambers Street starting at North End Avenue, east to Greenwich Street, south to Park

Place, east to Broadway, south to Rector Street, west to West Street, north the Albany Street, west to South End Avenue, north to World Financial Center Esplanade, north to Murray Street, west to North End Avenue, north to Chambers Street.

Eligible Premises: Means a business premises located within the Eligible Area where the Eligible Business has agreed to operate for a period of not less than 5 years from the commencement date. **If the Business was located as of September 11, 2001 in the Restricted Zone, the Eligible Premises may be located anywhere within the City of New York.**

Requirements

A business shall be eligible for funding after submitting a completed application if it meets the following requirements:

- ◇ It is a for-profit business entity, **OR** a not-for-profit organization established under Sections 501(c), 501(e), 501(f), 501(k), 501(n) or 521(a) of the Internal Revenue Code and is **not** involved in religious or political activities;

AND

- ◇ As of September 11, 2001:
 - it was operating its business pursuant to a fee or leasehold interest at a location within the October 23 Zone, **or**
 - it was operating its business pursuant to a lease for its then current business premises within the Eligible Area and that lease was to expire, by its terms, prior to December 31, 2004, **or**
 - it was operating its business outside the Eligible Area, **or**

- it had not yet commenced its business operations.

AND

- ◇ Subsequent to September 11, 2001:
 - it purchased a fee interest in an Eligible Premises, **or**
 - it entered into a new lease for an Eligible Premises for a minimum term of five years, **or**
 - it extended an existing lease for an Eligible Premises for an additional period of not less than five years from the current expiration date.

AND

- ◇ As of the application date, it employs a minimum of 10 full-time permanent employees and not more than 200 full-time permanent employees at the Eligible Premises.

Grant Amounts

After submission and acceptance of application and **subject to all eligibility requirements:**

Initial Location	New Location	
	Eligible Area	NYC (Outside Eligible Area)
Restricted Zone	\$2,500 per employee on Application Date; \$2,500 per employee (not to exceed 250) on 18-month anniversary of Application Date	\$1,750 per employee on Application Date; \$1,750 per employee (not to exceed 250) on 18-month anniversary of Application Date
Outside Restricted Zone	\$1,750 per employee on Application Date; \$1,750 per employee (not to exceed 250) on 18-month anniversary of Application Date	\$0

Subject to availability of Program funds, applications will be accepted through December 31, 2004, except applicants that enter into new leases between September 1, 2004 and December 31, 2004 will have until April 1, 2005 to submit a complete application.

Guidelines, application forms and instructions, as well as additional information about the Program may be accessed at www.NYLOvesSmallBiz.com or www.newyorkbiz.com or by calling 1-800-ILOVENY or 1-866-227-0458, or by contacting your PKF representative.

In the Words of ...

F.J. Raymond: ***Next to being shot at and missed, nothing is really quite as satisfying as an income tax refund.***

Items in this publication should not be considered official statements of position, nor advice for individuals or organizations without consulting a tax advisor. For more information, please contact Howard Pell or Leo Parmegiani at:



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