TAX RELIEF COMPROMISE LEGISLATION OVERVIEW

Below is a summary of the tax relief compromise negotiated by the White House and Republican leadership. After brief debate, the proposal passed both the Senate and the House of Representatives without amendment. President Obama signed this legislation into law on December 17.

The law includes dozens of renewals of expired and expiring credits and deductions. The following are the provisions of most interest to SEMA members and small businesses:

Temporarily extends the 35% individual tax bracket. Under current law, the 35% individual income tax bracket expires at the end of 2010. Upon expiration, the rate becomes 39.6 percent. This proposal extends the 35% individual income tax bracket for an additional two years, through 2012.

Temporarily extends the capital gains and dividend rates. Under current law, the capital gains and dividend rates for taxpayers below the 25% bracket is equal to zero percent. For those in the 25% bracket and above, the capital gains and dividend rates are currently 15%. These rates expire at the end of 2010. Upon expiration, the rates for capital gains become 10% and 20%, respectively, and dividends are subject to the ordinary income rates. This proposal extends the current capital gains and dividends rates for all taxpayers for an additional two years, through 2012.

Two-year Alternative Minimum Tax (AMT) patch. Currently, a taxpayer receives an exemption of $33,750 (individuals) and $45,000 (married filing jointly) under the AMT. The proposal increases the exemption amounts for 2010 to $47,450 (individuals) and $72,450 (married filing jointly) and for 2011 to $48,450 (individuals) and $74,450 (married filing jointly).

Deduction of State and local general sales taxes. The bill extends for two years (through 2011) the election to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes.

Temporary estate, gift and generation skipping transfer tax relief. Extend the estate tax for two years at 35% tax with a $5 million individual exemption.

The 2001 tax cuts phased-out the estate and generation-skipping transfer taxes so that they were fully repealed in 2010, and lowered the gift tax rate to 35 percent and increased the gift tax exemption to $1 million for 2010. The proposal sets the exemption at $5 million per person and $10 million per couple and a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount is indexed beginning in 2012. The proposal is effective January 1, 2010, but allows an election to choose no estate tax and modified carryover basis for estates arising on or after January 1, 2010 and before January 1, 2011. The proposal sets a $5 million generation-skipping transfer tax exemption and zero percent rate for the 2010 year.

Portability of unused exemption. Under current law, couples have to do complicated estate planning to claim their entire exemption (currently $7 million for a couple). The proposal allows the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse without such planning. The proposal is effective for estates of decedents dying after December 31, 2010.

Reunification. Prior to the 2001 tax cuts, the estate and gift taxes were unified, creating a single graduated rate schedule for both. That single lifetime exemption could be used for gifts and/or bequests. The 2001 tax cut law decoupled these systems. The proposal reunifies the estate and gift taxes. The proposal is effective for gifts made after December 31, 2010.

Extension of research and development tax credit. The R&D tax credit expired on Dec. 31, 2009. The agreement would retroactively extend the credit through 2011.

Extension of bonus depreciation. Under current law, businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Congress allowed businesses, beginning January 1, 2008 through December 31, 2009, to take an additional depreciation deduction allowance equal to 50 percent of the cost of the depreciable property placed in service in those years. Under the SEMA-supported Small Business Jobs Act of 2010, this temporary increase in the depreciation deduction allowance was extended through December 31, 2010. The bill extends and temporarily increases this bonus depreciation provision for investments in new business equipment. For investments placed in service after September 8, 2010 and through December 31, 2011, the bill provides for 100% bonus depreciation. For investments placed in service after December 31, 2011 and through December 31, 2012, the bill provides for 50% bonus depreciation. The provision also allows taxpayers to elect to accelerate some AMT credits in lieu of bonus depreciation for taxable years 2011 and 2012.

Temporarily extends increase in the maximum amount and phase-out threshold under Section 179. Under current law, a taxpayer with a sufficiently small amount of annual investment may elect to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. The new law extends for two years the $500,000 (of the cost of qualifying property placed into service) maximum amount a taxpayer may expense under Section 179. In tax year 2012, the amount will reduce to $125,000, and beginning in 2013 (and thereafter), the maximum amount will be capped at $25,000.

Temporarily extends recovery period for motorsports complexes and racetracks. Under current law, the recovery period for motorsports entertainment complexes placed into service before December 31, 2009 is seven years. The new law extends the seven-year recovery period toward racetrack improvements for two years to apply to property placed in service before January 1, 2012.

IRS Releases Guidance on the 2011 percentage method tables for tax withholding, and instructions for employers on implementing the 2011 payroll tax cuts. CLICK HERE for the IRS notice.