

Stimulus package has nuggets of help for small businesses

A five-year carryback of net operating losses is called 'a source of cash'

By Howard McEwen B2B Contributor

While critics charge that the American Recovery and Reinvestment Act of 2009 — aka The Stimulus Bill — is nothing but legislative largesse, advisers to small businesses have found nuggets of gold in the program.

"Of all the items for small business, the five-year carry back of net operating losses will generate the most bang for small business — it's a source of cash for them," said Kathy E. Mospens, of Mospens & Associates, an area firm that consults with small businesses on tax issues.

Before the passage of the stimulus act, small businesses could deduct losses in 2008 against profits made in 2006 and 2007 and reclaim some of the taxes paid in those years. The stimulus act allows businesses to go back five years to off-set their 2008 losses.

"However, the down side will be the amended returns that will be filed will be not be addressed by the IRS very quickly. Their procedure is to work amended returns after current year filings, which means those may not be addressed until late October."

The stimulus act has a nugget just for SCorporations that were once C-Corporations. Under prior law, if the S-Corporation has appreciated assets it bought while a C- corporation, any gains will be taxed at the highest corporate tax rate for the first 10 years it is a S-corporation— not the usually lower individual income tax rate. Under the stimulus act, that holding period is reduced to seven years.

"This allows businesses who are holding onto unproductive assets for tax reasons to sell them earlier and use the proceeds to grow their business," said Jennifer M. Gatherwright, founding partner of Gatherwright-Freeman, a law firm that specializes in business transactions. For firms looking to purchase assets, the stimulus act doubles to \$250,000 the amount that businesses are allowed to expense. "What that means is that a business buying a \$300,000 machine can expense the first \$250,000 of that asset," Mospens said. "They don't have to depreciate it across five years — that's a valuable current-year tax savings." Gatherwright thought this nugget was of limited value. "It's nice in theory but not that helpful because most small businesses have no money to purchase assets," she said.

The stimulus bill also has help for struggling firms that have had to negotiate with debtors to cancel debt. Many firms learn that after the debt is canceled, it owes taxes on the canceled debt.

"If a creditor writes off \$5,000 in debt, the IRS looks at that forgiven debt as income," Gatherwright said. "The stimulus act allows that income — if incurred during 2009 and 2010 — to be stretched across eight years."



