



SURVIVING BUSINESS DOWNTURNS

CAE CPA
ACCOUNTING • TAXES

SURVIVING BUSINESS DOWNTURNS

With credit tight, and with profits down or nonexistent, a business will want to maximize cash flow so that it can continue to pay operating expenses. This booklet discusses some tax provisions that can be used to increase cash flow by reducing federal income taxes during a business downturn.

This guide highlights the rules for writing off assets, deducting losses and stretching certain payments. You will learn about:

- Deductions (and credits) for the cost of assets;
- Cancellation of indebtedness income;
- Losses, including net operating losses;
- Bad debts; and
- Legislative relief.

An effective tax strategy for a business downturn generally requires maximizing tax credits and deductions, to enable the business to reduce taxable income or even generate taxable losses (Note: In some cases, the business will want to defer expenses, even though deductible, to preserve cash flow). The business may also want to exclude or at least defer income, to accomplish the same goals of reducing taxable income (and tax liabilities) or increasing losses. Recognizing

or even accelerating losses may be advantageous because they can be used to generate an immediate refund by offsetting prior year profits. Or they can be used to reduce taxable income in the future. In other words, there are many options to consider before deciding which combination is right for you!

Congress, the president and the IRS are trying to ease the burden of operating a business in a downturn. This booklet highlights certain recent tax provisions enacted toward that goal. Some of these provisions are temporary and provide relief only through the end of 2010. Other provisions are permanent. For example, bonus depreciation and first-year expensing can be used to reduce taxable income. First-year expensing is permanent, but the amount that can be deducted has been temporarily increased. In addition, a business with insufficient profits can benefit from bonus depreciation, which is also a temporary provision. And with certain excess credits, it might temporarily be able to

obtain a refundable credit by forgoing a deduction for bonus depreciation.

Other useful provisions allow the deferral of cancellation of indebtedness income, the carryback of net operating losses, reduced estimated tax payments, and reduced pension plan funding. On the other hand, a temporary provision that costs businesses money requires them to contribute to the COBRA health insurance costs of former employees whom they laid off. While the government reimburses employers for these payments, cash flow can be a problem and administrative costs are not reimbursed.

DEPRECIATION AND EXPENSING

A business that uses an item of tangible property over a number of years generally must depreciate the property's cost over its period of use (its recovery period). Bonus depreciation allows the business to accelerate the amount of depreciation that can be deducted in the first year of use for new property (It does not increase the total amount of depreciation that can be deducted). Property converted to business use by the original purchaser also qualifies for bonus depreciation.

Under the *American Recovery and Reinvestment Act of 2009 (2009 Recovery Act)*, Congress provided the use of 50 percent bonus depreciation through December 31, 2009. However, Congress

has not extended this temporary business tax incentive into 2010. Although bonus depreciation is not a permanent tax provision, it would not be surprising if Congress extends its availability for 2010.

Accelerating the depreciation deduction reduces the property's up-front tax cost and, many believe, stimulates business investment in depreciable property. There is no limit on the amount of bonus depreciation that can be taken on multiple properties.

First-year expensing allowed companies to write off the cost of depreciable property. For example, in 2009, companies could write-off up to a total of \$250,000. The deduction can be applied to one or more properties. Unlike bonus depreciation, the limit on first-year expensing is reduced dollar-for-dollar if a business's total investment in depreciable property exceeds a specified threshold (it was \$800,000 for 2009). The threshold typically limits expensing to small businesses. Unlike bonus depreciation, however, expensing can be taken on used as well as new property.

To maximize deductions, taxpayers should apply first-year expensing to property with the longest recovery period, because these assets have the lowest annual depreciation rate. For taxpayers who qualify, expensing should generally be taken before bonus depreciation.

A company with a net operating loss (NOL) (a taxable loss for the year) can carry back the loss to a prior year where the company had taxable income. It can then offset and reduce the prior year's income and obtain a refund for the reduction in tax liability. However, a company cannot use first-year expensing to generate an NOL. A company that does not use its total expensing allowance for the year can carry forward the excess and use it in the subsequent year.

Example. In 2008, M buys one depreciable asset for \$150,000. M elects first-year expensing and writes off the entire \$150,000 cost of the asset. M's unused expensing limit is \$100,000. In 2009, M buys property for \$400,000. M can write off \$250,000 of the property's cost using the 2009 expensing limit, and can write off another \$100,000 of the property's cost using the unused 2008 limit.

Refundable credit for unused bonus depreciation

Companies experiencing losses may not be able to take advantage of bonus depreciation because they do not have taxable income against which to take the deductions. But the *Housing Assistance Tax Act of 2008* and the *2009 Recovery Act* allowed businesses to be paid a refundable credit, in lieu of taking bonus depreciation, if they had accumulated alternative minimum tax (AMT) or research and development (R&D) credits from before 2006. This option was

available for any property that qualified for bonus depreciation in 2009. The accelerated credit elections began April 1, 2008. If Congress chooses to extend bonus depreciation through 2010, it may also extend the refundable credit for unused bonus depreciation as well. The incentives could be made retroactive to January 1, 2010.

In general, the 2009 refundable credit was equal to the "bonus depreciation amount," which was 20 percent of the difference between depreciation claimed on eligible property with and without bonus depreciation. The credit was limited to the lesser of \$30 million or the accumulated AMT and R&D credits from before 2006. The company then had to use straight-line depreciation for the actual depreciation of the property. The total amount of depreciation claimed was not reduced, only the timing of the depreciation. If the refundable credit is extended through 2010, similar rules and limitations are likely to apply.



MAXIMIZING DEDUCTIONS

To reduce taxes, companies want to make sure that they are claiming all allowable deductions. This includes the manufacturing deduction, otherwise known as the domestic production activities deduction, which is an additional deduction that companies can claim. It is based on a percentage of their taxable income from manufacturing activities. “Manufacturing” is broader than the production of tangible products, applying to movies, for example, and computer software. For 2010, the deduction is nine percent of “qualified production activities income.”

Cost segregation. Another strategy worth considering is cost segregation. Components of a building that qualify as tangible personal property may be separately depreciated. This will greatly shorten the period and accelerate the rate of depreciation. Building components generally may be depreciated over five to seven years using the double declining balance method, whereas the building itself must be depreciated over 27.5 years (residential rental property) or 39 years (commercial property), using straight-line depreciation. Examples of components include security and fire protection systems, removable partitions, removable carpeting and wall tiling, counters, and appliances and machinery unrelated to the operation and maintenance of the building.

LOANS

Your business probably has borrowed money, but it may have trouble paying back a loan. You may be able to obtain the lender’s consent to reduce the amount of the loan or cancel the loan. This debt forgiveness creates ordinary income that is taxable. This income can be a particular problem since you didn’t receive any additional cash (for paying taxes) at the time the “income” arose. But you may be able to exclude the income under several “exclusions” under the Internal Revenue Code.

Mortgage debt. A property owner may have a gain or loss on the surrender, foreclosure or abandonment of mortgaged property to the lender. The compromise of mortgage debt generates discharge of indebtedness income to the borrower.

Bankruptcy and insolvency. Debt canceled in a Title 11 bankruptcy case (business reorganization) is not income, but the debtor must reduce its tax attributes. Similarly, if the debtor is insolvent (total liabilities exceed value of assets), the canceled debt is not income.

Real property. Discharge of debt on real property used in a business can also be excluded from income, even if the debtor is solvent.

Example. N borrows \$1 million to build a factory. The loan is secured by the factory. Because N is having trouble making payments on the loan, the lender reduces the loan obligation to \$800,000. N has discharge of indebtedness income of \$200,000. This income is taxable as ordinary income unless N qualifies for an exclusion. Since the factory is real property used in a business, N can exclude the discharge of indebtedness from income.

Reduction of tax attributes. A debtor that can exclude canceled debt from income, however, must pay a price. The business must reduce its tax attributes by the same amount, in the following order: NOLS, general business credits, minimum tax credits, capital losses, basis of assets, and so forth in a set order.

Taxpayers, however, can elect to reduce the basis of depreciable property before other attributes. In most cases, a reduction in tax attributes means that if your business turns a profit in the future, more of that income will be taxed because lower deductions and credits will be available.

If a lender acquires property to satisfy a debt, this is a sale or exchange on which the borrower may recognize gain or loss, irrespective of cancellation of indebtedness income. Your gain or loss depends on your tax basis in the property at the time you transfer it to the lender in repayment (or partial repayment) of your debt.



Example. N borrows \$1 million to build a factory. The loan is secured by the factory. N takes \$100,000 of depreciation on the factory, reducing its basis to \$900,000. N makes no payments and defaults on the loan. The lender forecloses on the loan and takes the factory. The foreclosure is treated as a sale of the property. N has taxable income of \$100,000, equal to the amount realized (the principal amount of the loan) reduced by the property's basis (\$1 million - \$900,000).

OWNERSHIP INTEREST FOR DEBT

Special rules apply to the satisfaction of debt with corporate stock (of a C or S corporation) or a partnership interest. The latter can be a capital or profits interest. The corporation or partnership is treated as having satisfied the debt with cash equal to the fair market value of the stock or partnership interest.

Proposed partnership rules, however, would deny a loss to the creditor who takes a partnership interest worth less than the amount of the debt. The

creditor instead has a basis equal to the amount of the debt. When the creditor sells the interest, the loss is a capital loss, in contrast to the bad debt deduction, which would be an ordinary loss. These IRS rules would treat the value of the interest as its partnership liquidation value, which is generally lower than other values. Effective dates here are tricky and professional advice is essential.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The *2009 Recovery Act* allows a business to elect to postpone cancellation of debt income incurred in 2009 or 2010 until 2014, and then to recognize the income over five years. This treatment applies when debt or proceeds from newly-issued debt are used to repurchase or reacquire “applicable” business debt issued in the form of a bond, debenture, note, certificate or any other debt instrument. If the election is made, the cancellation of indebtedness income exclusion rule and the attribute reduction rules no longer apply. The deferred income is accelerated if the business disposes of all its assets or ceases business. There are many variables that a business should consider before deciding whether to elect this special treatment.

Bad debts

If you are on the lender’s end of a business loan gone sour, the “bad debt”

deduction rules can offset some of your losses. Specifically, a taxpayer can deduct partially or totally worthless business bad debts as an ordinary loss. This can be used to offset other income or generate an NOL.

Comment. A worthless nonbusiness bad debt is deductible as a short-term capital loss.

The amount that can be deducted is the taxpayer’s basis in the debt, not the debt’s fair market value or face value. If the business is a corporation, a debt not evidenced by a security can be a bad debt. If the business is not a corporation, a business bad debt can be a debt created as part of the business. The debt must be bona fide, there must be a valid debtor-creditor relationship, the obligation must be enforceable, and the amount of the debt must be fixed.

A business that cancels a debt owed by an insolvent debtor has a bad debt deduction, because the cancellation eliminates the debt. However, cancellation of a debt of a solvent debtor yields a loss, not a bad debt, because the settlement extinguishes the debt and leaves no balance that may be regarded as a bad debt.

Both losses and business bad debts can generate an ordinary loss. A debt, however, is not a bad debt if it is secured by collateral. If the business acquires property to satisfy a debt, the portion of the

debt that is not satisfied is a bad debt. The acquisition is a taxable exchange of debt for property. A loan of property aside from cash that is not returned is a loss, not a bad debt.

Example. L lends \$1 million to N, who uses the loan to buy a factory. N makes no payments and defaults on the loan. At the time of the default, the factory is worth \$800,000. L takes the factory to satisfy \$800,000 of N's debt and cancels the other \$200,000 of the debt. L has a bad debt deduction of \$200,000.

Payment obtained after a debt has been written off as totally worthless is taxable. Payment on a partially worthless debt reduces the basis of the debt. Generally, a partially worthless debt cannot be written off until it becomes totally worthless. A partially worthless debt may be written off if it is unsecured and the taxpayer can demonstrate that part of the debt will not be recovered.

If a taxpayer guarantees another person's debt, the loss to the guarantor on a payment that cannot be recovered is a bad debt. The IRS says the loss is a nonbusiness bad debt; the Tax Court has treated the loss as a short-term capital loss deduction, subject to the \$3,000 limit for deducting capital losses.

PROPERTY LOSSES

You can deduct property losses that are not reimbursed or covered by insurance. You must incur the loss in a trade or business, a transaction entered into for profit, or from a casualty loss, such as a fire or flood. You can deduct a trade or business loss when computing your business's adjusted gross income; thus, the loss in effect is an ordinary, not a capital loss. The determination whether the loss is incurred in the trade or business follows the standards for deducting an expense as an ordinary and necessary trade or business expense.

Losses on business property can be deducted when the property is sold, damaged, abandoned or becomes worthless. Paper losses due to a drop in value, absent one of these events, are not deductible. Losses from theft are deductible in the year discovered. The amount of loss for business property is limited to the basis (cost minus depreciation) of the property. Thus, a deduction for loss of inventory

is limited to the cost of the inventory, not its sales price or fair market value.

Example. P buys a car for \$15,000 and uses the car in its business. For its first year, P takes \$7,000 of depreciation, reducing the car's basis to \$8,000. At the end of the year, the car is worth \$9,000, but through some bad advice, P sells the car for \$5,000. P has a loss of \$3,000 (\$8,000 basis minus \$5,000 amount realized). The value of the car does not affect the amount of the loss.

Losses from sales of securities are of course treated as capital losses, but their deduction is limited. Corporations can only deduct losses to the extent of gains. Other taxpayers can deduct up to an additional \$3,000 of net capital losses each year against non-capital gain income. Any excess losses can be carried forward up to five years for a corporation and to succeeding years (until exhausted) for noncorporate taxpayers.

Code Sec. 1231

While most tangible business assets (aside from inventory) are capital assets, certain assets qualify for special treatment that is beneficial to a business. If, for the year, the taxpayer has a net gain from the sale of all "Code Sec. 1231 property," all gains and losses are treated as capital. On the other hand, if losses from Code Sec. 1231 property exceed gains, then all gains and losses are treated as ordinary. Thus, Code Sec. 1231 can provide a favorable "heads

you win, tails you win," situation. Code Sec. 1231 property includes real estate and other depreciable property used in the trade or business.

Example. Q uses a car and a truck in its business. Both the car and the truck are Code Sec. 1231 property. After two years, Q sells the car for a loss of \$1,000 and sells the truck for a gain of \$2,000. Since the Code Sec. 1231 gains exceed the Code Sec. 1231 losses, all gains and losses are long-term capital amounts, and the net gain is a long-term capital gain. On the other hand, if the car was sold for a gain of \$1,000 and the truck was sold for a loss of \$2,000, all gains and losses would be ordinary (not capital) losses and the net loss is an ordinary loss.

Limitations on losses

Additional limits may prevent or reduce deductions for losses. For partnerships and other businesses that do not operate in corporate form, deductions that are passed through to their partners or owners are limited to the amount that the owner of the business has "at-risk." Amounts at risk include cash contributions, the basis of property contributions, and business loans, provided the borrower is personally liable for the loan or has pledged assets to secure the loan (such as a real estate mortgage).

An owner who is personally liable for a business's debts is at-risk for those debts. If the business losses exceed the amount at

risk, the excess is not currently deductible but can be carried forward to the following year, to take against amounts at-risk.

Example. B and C each contribute \$1,000 to a general partnership. The partnership borrows an additional \$1,500. As general partners, B and C are personally liable for the loan. Although each partner contributed only \$1,000, their amount at risk is \$1,750 (the sum of their contribution and their share of the loan). If the partnership runs a loss of \$2,500, each partner can deduct a loss of \$1,250, which does not exceed their amount at risk.

Losses from passive activities can only be deducted against gains from passive activities. A passive activity is a business that the taxpayer does not materially participate in. Rental activities are also classified as passive activities. Any deductions, credits or losses that are disallowed can be carried forward and deducted against passive income in a future year. Any remaining deductions or losses can be written off when the taxpayer disposes of the passive activity.

Example. D invests \$50,000 in a partnership that owns, rents and manages real estate. D does not materially participate in the business. D incurs a \$40,000 loss as his share of the partnership's business. Even though D was at-risk, the \$40,000 loss is a passive activity loss and can only be deducted against income from another passive activity.

D cannot deduct any of the \$40,000 against his wages or other income.

Finally, the activity is not a trade or business unless it is carried on to make a profit. Losses from a "hobby" or other activity not engaged in for profit are only deductible against gains from the activity. The losses cannot be used as a deduction against other income of the taxpayer.

NET OPERATING LOSSES

No one who operates a business wants to lose money. However, a business with a net operating loss (NOL) for the year can use the loss to reduce net income from another year and, if "carried back," obtain a refund because of the reduced tax liability. A trade or business has an NOL when its deductions exceed its gross income for the tax year. A business can have an NOL whether it operates as a corporation, an unincorporated sole proprietorship, or another type of entity.

Example. Entity R lost \$1,000 in 2008 from its manufacturing business and thus has an NOL of \$1,000. R can use the losses to offset net income earned in another year. If R reported \$2,000 of income in 2007, it can carry back the \$1,000 loss and consequently report income of only \$1,000 for 2007. It can file an amended return for 2007 and claim a refund because of its reduced tax liability.

The NOL can generally be carried back two years and be carried forward for up to 20 years. This is the normal carry-over period. Longer carryback periods are available for certain types of losses: a three-year period for casualty losses and theft; a five-year period for certain disaster losses occurring before January 1, 2010 (and for 2008 or 2009 operating losses, discussed below); and a 10-year period for “liability” losses, such as product liabilities and workplace liabilities.

Example. Entity R lost \$1,000 from its manufacturing business in 2008. It can carry back the loss two years, to 2006. If it had income of \$700 in 2006, it can use \$700 of the NOL to offset the 2006 income and claim a refund. It can then use the remaining \$300 of NOL to offset income earned in 2007. If it had no income in 2007, it can carry forward the \$300 NOL to 2009 and later years, until the NOL is exhausted. If R lost an additional \$4,000 in 2008 because of damage caused by one of its products, it can carry back the \$4,000 for 10 years, to offset income from 1998 and subsequent years.

A business can waive the carryback period (whatever its length) and choose to carry forward all of its NOLs. This waiver is important because an NOL is treated as used in a year to which it can be carried, even if the taxpayer failed to file an amended return in time to take the NOL deduction. This has the effect of reducing the NOL available in later years.



2008 and 2009 benefits. The *2009 Recovery Act* provided a major benefit for small businesses, allowing a carryback period of three, four or five years. This is particularly advantageous for a company that had profits more than two years ago and may incur losses now and in the near future. A small business is a business that had average gross receipts of \$15 million or less over a three-year period ending with the year of the NOL.

The *2009 Recovery Act* only applies to losses from a tax year that begins or ends in 2008.

Example. Entity S, a small business, incurred losses in 2006 and 2007. In 2008, it again operated at a loss. Thus, S has an NOL for 2008, but it normally could not carry back the NOL because it did not have any income to offset in the prior two years. S earned a profit in 2005. Under the *2009 Recovery Act*, it can carry back its 2008 NOL three years to 2005, file an amended return and claim a refund.

Under the *2009 Worker, Homeownership and Business Assistance Act (2009 Worker Act)*, nearly all businesses, not just small businesses, can take advantage of the expanded NOL carryback for either 2008 or 2009 NOLs. The new, expanded election is available for NOLs incurred in either 2008 or 2009, but not for both years.

However, an eligible small business that elected under the *2009 Recovery Act* to carry back 2008 NOLs may make the election for an additional year, thus enabling the qualified small business to carry back NOLs from both 2008 and 2009 for up to five years.

Caution. Under the *2009 Worker Act*, an NOL carried back to the fifth year before the loss year is limited to 50 percent of the available taxable income for that year. Any remaining NOL can fully offset taxable income in the remaining four carryback years.

Election and timing. The election to take advantage of the extended and enhanced NOL carryback must be made by the due date (including extensions) for the tax return filed for the taxpayer's last taxable year beginning in 2009. Once made, the election is irrevocable. If the taxpayer previously elected not to carry back an NOL from a tax year ending before November 6, 2009 (the date of the law's enactment), the taxpayer can revoke the election before the due date (including extensions) for filing the taxpayer's 2009 return.

Using the NOL

Because a corporation is a separate entity, its NOL cannot be used by the corporation's shareholders, and vice versa. The NOL must be used by the same corporation in another year. There are limits on "trafficking" in NOLs that limit the available NOL when one corporation acquires another corporation that has an NOL.

If a business is not a regular corporation, its losses flow through to its owners. A partnership or S corporation itself cannot use NOL deductions, but the current year losses can flow through to the partners or S corporation shareholders and be used to offset other income of the partners or S shareholders. Like the at-risk rules, a partner or S shareholder can only deduct losses up to the basis of his or her partnership or S corporation interest. The partner or S shareholder can carry forward any excess losses.

Example. Individuals B and C each own a 50 percent interest in a partnership in which they materially participate. In 2008, the partnership incurs a loss of \$2,500. The partnership cannot use this NOL to offset partnership income from another year. Instead, the \$2,500 of losses flows through the partners. B and C each have a partnership loss of \$1,250. They can use this loss to offset other income from 2008, such as wages.

If the business is operated as an individual sole proprietorship, the business's NOL can offset other income of the individual. Any excess can be used in another year against the business's income.

Example. Individual E, an engineer, owns and manages rental property. He incurs a loss of \$1,000 from operating the property for 2008. He can use the loss to offset his earnings of \$5,000 as an engineer for 2008. If he only earned \$600 as an engineer for 2008, he can offset the \$600 of income and carry forward the remaining \$400 loss to offset his 2009 earnings.

To use an NOL, the taxpayer must file an amended return or a special form used to apply for a refund. A corporation can file Form 1120X, Amended U.S. Corporation Income Tax Return, or Form 1139, Corporation Application for Tentative Refund. An individual can file an amended Form 1040X or Form 1045, Application for Tentative Refund. Filing Form 1139 or 1045 means a quicker refund from the IRS, but the form must be filed by the end of the year for filing a return for the year the NOL is incurred (the "loss year"). The taxpayer must file the amended return within three years of the due date (including extensions) for filing the return for the loss year, or within two years from the time the tax was paid, if later.

COBRA BENEFITS – A NEW COST

The *2009 Recovery Act* provides a new health tax benefit that will save health care costs for workers who have been laid off, while imposing cash flow restraints on their former employers. Any individual who is involuntarily separated from employment between September 1, 2008 and February 28, 2010 can elect to pay 35 percent of the cost of COBRA coverage and obtain full insurance coverage.

Ordinarily, employees who lose their job can elect to continue, for 18 months, the health insurance coverage that was provided by their employer, but they have to pay the full cost of the coverage, without any contribution by the employer. Under the new law, the former employee pays 35 percent, and the employer pays the other 65 percent. The employer will recover the 65 percent payment by taking a credit with the federal government against income tax withholding and other payroll taxes otherwise due. Thus, the federal government ultimately pays the 65 percent share. But the employer has to front the money by paying the health insurance company first, thus having a potential impact on its short-term cash flow.

PENSION PLAN FUNDING

In the *Pension Protection Act of 2006 (PPA)*, Congress tightened the funding requirements for defined benefit pension plans maintained by private companies.

The *PPA* was designed to strengthen troubled plans before employers slipped into bankruptcy. The law increased the limit for deductible contributions while generally requiring higher funding levels. Most pension plans have to become fully funded over a seven-year period.

New funding rules apply beginning in 2008. Plans that are “at-risk” are subject to certain restrictions. Companies that are below 80 percent funded cannot provide any enhanced or new benefits. Plans that are less than 60 percent funded cannot offer any lump-sum benefit payouts, and new accruals are frozen.

However, in a troubled economy, Congress became concerned that many businesses would not be able to meet the new funding obligations without jeopardizing both their pension plans and the businesses themselves. The 100 percent funding requirement for companies that missed the target funding percentage for a particular year (94 percent for 2009; 96 percent for 2010) was eased so that companies only had to meet the target funding level for that year (e.g. 94 percent for 2009).

To avoid restrictions on benefit accruals, plans can look back to the previous plan year to determine their funding status. This applies to plan years beginning before October 1, 2009, and allows plans to look at the plan’s funding before the market collapse of 2008.

The *PPA* allows plans to determine their funding level through two-year asset smoothing, rather than focusing on current fair market value. Plans that fall below 60 percent funding are allowed to make lump-sum payments of \$5,000 or less, even if the plan would otherwise be prohibited from paying lump sums.

CONCLUSION

There are many tax provisions of particular significance for businesses during periods of economic distress. With cash management at a premium, you want to conduct your business to minimize your tax liability and maximize your cash flow.

While some provisions and techniques already existed to help businesses during financial difficulties, Congress and the IRS have been particularly aware that many more businesses need special help during the current downturn. They have responded with additional relief to reduce the tax and cash-flow demands on a business. In a rush to offer this help, however, many provisions are not as carefully constructed as others and require a business to think through each opportunity – its pros and cons – before jumping into any particular tax strategy. Yet many of these provisions contain a short window of time within which they are available. Professional tax advice in these situations is often needed to meet these deadlines with the best possible results.