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OBJECTIVE ADVICE ON THE ROAD OF LIFE

Dear Client:

We wanted to once again remind you of the tax depreciation laws as they currently apply for 2012 and 2013. For 2012 tax years, one major tax break for assets used in business has been drastically reduced, and another has been completely eliminated. Specifically, "expensing" under **Code Sec. 179** (a 100% first-year write-off) is reduced from 2011 levels, and additional enhanced first-year depreciation (bonus depreciation) is reduced and is scheduled to be completely eliminated. As more fully discussed below, the reduction in **Code Sec. 179** expensing impacts, generally, only smaller businesses, and the elimination of bonus depreciation is, generally, but not exclusively, of interest to larger businesses.

*Reduction in **Code Sec. 179** expensing.* **Code Sec. 179** expensing is available, on an elective, asset-by-asset basis, for the following types of property, whether new or used ("section 179 property"): machinery, equipment, and other tangible personal property; most publicly sold computer software and some non-building land improvements.

For 2012 tax years (whether calendar or fiscal), the election is available for up to $139,000 of section 179 property per year (the dollar limit). The dollar limit is reduced, dollar for dollar, to the extent that the taxpayer's total section 179 property placed in service during the year is more than $560,000 (the phase-out rule). In addition, qualified leasehold improvements, qualified restaurant property and qualified retail improvements that were eligible for section 179 expensing in prior years are no longer in effect.

For tax years (whether calendar or fiscal) beginning in 2013 and later, the dollar limit is scheduled to further fall to $25,000 and the beginning-of phase-out level to $200,000. Also, the computer software described above will no longer qualify as section179 property.

If you are currently planning to invest in section 179 properties at levels that don't maximize the pre-2013 tax year benefits discussed above, you might consider accelerating your planned investments. Alternatively, you might decide to leave your plans unchanged. Your reason might be either non-tax business considerations or that you anticipate that deductions from the investments will offset income that in the post-2012 tax years would otherwise be taxed at rates higher than the income that would be offset in earlier tax years. We can assist you in making that planning decision.

Bonus depreciation. 100% or 50% bonus depreciation applies, subject to an election-out on a depreciation -class-by- depreciation class basis, to the following types of new (not used) property ("qualified property"): tangible property with a depreciation period of not more than 20 years (machinery, equipment, other tangible personal property, and non-building land improvements); most computer software; and certain leasehold building improvements.

Under 100% bonus depreciation, a complete write-off in the placed-in-service year is available for the cost of certain property with a long production period and aircraft, the placed-in-service deadline is Dec. 31, 2012).

Where 100% bonus depreciation isn't available, because construction or acquisition of the qualified property began before Sept. 8, 2010 or because the property was placed in service after Dec. 31, 2011 (or 2012, as the case may be), 50% bonus depreciation applies. 50% bonus depreciation results in a deduction of 50% of the cost of an item of qualified property in the placed-in-service year and depreciation, under the regular depreciation rules, for the remaining cost of the item over the item's assigned depreciation period (beginning with the placed-in-service year). However, 50% bonus depreciation won't be available for property placed in service after Dec. 31, 2012 (except that for the long-production-period property and aircraft discussed above, the placed-in-service deadline is Dec. 31, 2013).

The opportunity to claim bonus depreciation should be of most interest to taxpayers who are placing into service section 179 properties in excess of the dollar limits (determined after application of the phase-out rule). If you are in that situation and are currently planning to invest in qualified property at levels that don't maximize pre-2013 bonus depreciation benefits, you might consider accelerating your planned investments—or not to do so for reasons similar to those discussed above for **Code Sec. 179** expensing. Again, we are here to assist in the planning.

Note that even if yours is a smaller business, there are certain situations in which you might claim bonus depreciation. For example, certain land improvements (most parking lots, walkways, fencing, etc.) are eligible for bonus depreciation, but not **Code Sec. 179** expensing.

We look forward to talking to you about the tax planning discussed above or any other tax matter.

Very truly yours,

Roback, Kumlander & Pehl

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