

BENEFIT

Plan Trends



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New Legislation Provides Tax Breaks To Small Businesses

Signed into law by President Barack Obama on September 27, the Small Business Jobs Act of 2010 extends a number of existing tax breaks for small businesses, introduces new provisions designed to stimulate business investment and ease tax burdens on business owners, and offers incentives for 401(k) plan participants to roll over funds to Roth accounts.

Among the new tax provisions of the law are the following:

Retirement account changes.

Beginning in 2010, participants in 401(k), 403(b), and 457(b) plans are permitted to roll over funds into Roth accounts within their plans. For rollovers in 2010, taxable income

may be spread ratably over the 2011 and 2012 tax years. It is important to note that plan sponsors may have to act quickly to amend their plan documents to allow rollovers, so that participants can complete their

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rollovers before the end of 2010 and take advantage of the tax deferral.

Starting in 2011, taxpayers with a nonqualified annuity are permitted to annuitize a portion of the contract, while the balance continues to grow on a tax-deferred basis, provided that the annuitization period is for 10 years or more, or for the lives of one or more individuals.

Enhanced deduction for start-ups. For 2010, the deduction for qualified business start-up expenses jumps from \$5,000 to \$10,000. The deduction that can be claimed is reduced by the amount of the business owner's total start-up costs that exceeds \$60,000, up from \$50,000 in 2009.



5575-C Garden Village Way
Suite 102
Greensboro, NC 27410

(336) 852-4554
(336) 698-3180 *fax*
(877) 273-7755

www.furrandassociates.com

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For qualifying property bought and placed in service in 2010, small businesses have the option of depreciating 50% of the adjusted basis of the property.

Self-employment tax deduction for health care costs. In 2010 only, self-employed business owners are allowed to deduct health insurance expenses for themselves and their families when calculating their self-employment tax.

Five-year carryback of general business credits. Starting in 2010, small businesses with annual gross receipts of under \$50 million are permitted to carry back general business credits to offset tax liabilities for five years, instead of one year. Businesses may also use these credits to offset alternative minimum tax (AMT) liabilities.

Cell phone deductions. Starting in 2010, cell phones are removed from the category of “listed property,” thus enabling business owners to deduct the cost of cell phones or similar communication devices used primarily for business purposes without having to keep extensive records.

Limits on tax shelter disclosure penalties. Under Code Sec. 6707A, taxpayers who fail to disclose participation in certain tax shelters to the IRS are liable to pay penalties. To reduce the impact of these penalty assessments on small businesses, the maximum amount of these penalties is limited to 75% of the tax benefit received, and caps have been placed on penalties for failure to disclose transactions.

The legislation also extends a number of the small business provisions included in previous stimulus packages:

Extension of bonus depreciation. For qualifying property bought and placed in service in 2010, small businesses have the option of depreciating 50% of the adjusted basis of the property. This is an extension of the 50% bonus depreciation provision of the American Recovery and Reinvestment Act (ARRA). Under the new legislation, bonus depreciation is also decoupled from the allocation of contract costs for certain assets.

Enhancement of Section 179 expensing. For 2010, and 2011, small businesses may expense up to \$500,000 of

Section 179 property, up from \$250,000 in 2009. The amount that may be expensed is reduced only if the cost of the Section 179 property placed in service exceeds \$2 million, up from \$800,000 in 2009. The definition of qualified Section 179 property is temporarily expanded to include certain types of real property, but the expensing amount is limited to \$250,000 for this property.

100% exclusion on sales of small business stock. Under ARRA, investors were permitted to exclude 75% of the gain from the sale of certain small business stock acquired and held for more than five years, up from 50% previously. Under the new law, the exclusion of stock purchased between the date of enactment and January 1, 2011 is raised to 100%, and the excluded gain is not subject to the AMT.

Five-year S Corporation built-in gain period. For a C corporation that has been converted to an S corporation, the holding period for appreciated assets to avoid the highest corporate-level tax rate has been further shortened to five years for assets sold beginning in 2011, down from seven years in 2009 and 2010.

In addition, the Small Business Jobs Act offers increased lending to qualified small businesses. Provisions include an increase in the limits on Small Business Administration (SBA) 7(a) loans (from \$2 million to \$5 million), 504 loans (from \$1.5 million to \$5.5 million), and microloans (from \$35,000 to \$50,000), as well as the elimination of borrower fees on 7(a) and 504 loans through the end of 2010. The law also increases government guarantees on 7(a) loans from 75% to 90% and provides assistance to states to support small business lending programs. Other provisions provide funding for initiatives to help small businesses secure more Federal contracts and to assist smaller companies in exporting their products to foreign markets.

For more information about the Small Business Jobs Act of 2010, contact your qualified tax professional.

Mutual Fund Expense Ratios In 401(k) Plans Slightly Higher In 2009

Even as more 401(k) plan participants shifted their investments toward lower-cost mutual funds, the average expense ratios for stock and bond funds in 401(k)s were higher in 2009 than in 2008. This is largely due to the decline in the value of the underlying assets, according to an annual report published by the Investment Company Institute (ICI).

The report, which draws upon data from a range of recent surveys, looks at the economics of providing 401(k) plans. The study found that, at year-end 2009, more than half of the \$2.8 trillion in 401(k) assets were invested in mutual funds, primarily in stock funds. An analysis of the asset-weighted average expense ratios paid by 401(k) investors on mutual funds in 2009 showed that the expense ratios on stock funds rose three basis points, to 0.74%; the expense ratios on bond funds increased two basis points, to 0.55%; and those on money market funds declined two basis points, to 0.36%.

According to the report, the expense ratio increases can be largely attributed to the stock and bond market downturn in 2008 and early 2009, as certain fixed costs were spread over proportionally fewer assets. Researchers further noted that the average stock and bond fund expense ratios paid by 401(k) investors had declined in the previous five years. Meanwhile, the decrease in money market fund expense ratios in 2009 can be largely attributed to ongoing fee waivers by firms in response to low interest rates.

The study also found that, despite the slight increase in expense ratios, 401(k) mutual fund investors continued to gravitate toward lower-cost mutual funds with below-average turnover in 2009. Of the

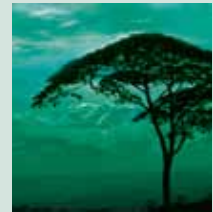
401(k) assets held in mutual funds, 80% were in “no-load” funds, which do not have a sales charge, and the remainder was invested in load funds, which typically waive their loads for retirement plan participants. Thus, researchers observed, the total expense ratio was the only investment charge most 401(k) investors paid in the mutual funds held in their plans. Moreover, the bulk of 401(k) assets invested in mutual funds were invested in stock mutual funds, and more than three-quarters of stock mutual fund assets held in 401(k) plans were in funds with expense ratios of less than 1%.

Researchers further observed that, while the costs of running a 401(k) plan generally are shared by the plan sponsor and participants, plan sponsors have a legal responsibility to ensure that the services provided to their plan are necessary and that the cost of those services is reasonable. However, fees are only one factor among many that a plan sponsor is obliged to take into account, in addition to considerations such as the extent and quality of the service offered and the characteristics of the investment options.

“The 401(k) plan investment market is highly competitive,” said Sarah Holden, senior director of retirement and investor research at ICI. “Although there are many measures to consider when investing—such as investment objective and risks and historical performance—the data suggest that plan sponsors research their plan options carefully and participants concentrate their assets in lower-cost mutual funds.”

Employee Tenure Shows Signs Of Increasing

While the length of time workers are staying with their employers appears to have risen over the last two years, a portion of this increase likely reflects job



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losses among less-senior workers as a result of the economic downturn, according to a report on employee tenure trends by the U.S. Bureau of Labor Statistics.

The study's authors noted that a number of factors can affect the median tenure of workers, including changes in the age profile among workers and in the number of hires and separations. The report's findings are based on data gathered from supplemental questions on employee tenure included in the January 2010 Current Population Survey (CPS), a monthly survey of approximately 60,000 U.S. households. These questions, which measure how long employees have been with their current employer, have been posed every two years since 1996.

The most recent report showed that the median number of years that wage and salary workers have been with their current employer rose to 4.4 in January 2010, from 4.1 years in January 2008. The median tenure for men is 4.6 years in 2010, up from 4.2 years in 2008. For women, median tenure in 2010 is 4.2 years, slightly higher than the median of 3.9 years in 2008. A total of 29% of all the wage and salary workers (30% of men and 28% of women) were found to have 10 years or more of tenure with their current employer in 2010.

Broken down by ethnic group, the 2010 results showed that 20% of Hispanic employees have been with their current employer for 10 years or more, compared with 30% of Caucasians, 26% of African Americans, and 21% of Asians. Researchers noted that the shorter tenure among Hispanic workers can be partly explained by their relative youth: 46% of Hispanic workers are between the ages of 16 and 34, compared with 35% of Caucasians, 38% of African Americans, and 36% of Asians.

In addition, the survey found that the percentage of wage and salary workers

with a year or less of tenure with their current employer is 19% in 2010. This short-tenured group includes new entrants and re-entrants to the workforce, previously unemployed workers who found new jobs during the previous year, and workers who had voluntarily changed employers during the previous year. Younger workers were more likely to have tenure of one year or less with their current employer (67% of workers aged 16–19, compared with 8% of workers aged 55–64).

The 2010 survey also revealed that wage and salary workers in the public sector have nearly double the tenure of their counterparts in the private sector, with public sector workers reporting a median tenure of 7.2 years, compared with 4.0 years for private sector workers. According to researchers, the longer tenure among workers in the public sector can be partly explained by the age profile of government workers: 74% of government workers are ages 35 and over, compared with 62% of private workers.

Of the major industry groups, the 2010 survey showed that private sector workers in manufacturing have the highest median tenure (6.1 years), while workers in leisure and hospitality have the lowest median tenure (2.5 years). Although these differences in tenure reflect many factors, the varying age distribution of workers across industries likely plays an important role, according to the report's authors.

Meanwhile, workers in management, professional, and related occupations were shown to have the highest median tenure (5.2 years) among the major occupational groups. By contrast, workers in service occupations were found to have the lowest median tenure (3.1 years). Among employees working in service jobs, food service workers were shown to have the lowest median tenure (2.3 years).



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