

October 25, 2004

To Our Clients:

The following is a summary of the most important tax developments that have occurred in the past three months. Please call Mark O. Dietrich for more information about any of these developments and what steps you should implement to take advantage of favorable developments and to minimize the impact of those that are unfavorable.

### Federal

The President signed the [Working Families Tax Relief Act](#) at the beginning of October. The Bill's basic purpose was to extend the \$1000 per Child Tax Credit (for those eligible) through 2009 as well as the 10% tax bracket. Both of these were scheduled to expire. The Child Tax Credit for children under age 17 begins to phase out when Adjusted Gross Income exceeds \$110,000 for married individuals.

Many clients will be positively affected by the extension of the higher Alternative Minimum Tax exemption through 2005. For married individuals, the exemption remains at \$58,000 rather than dropping back to \$45,000; for single individuals, the exemption remains at \$40,250 rather than dropping back to \$33,750. With the AMT rate topping out at 28%, this could save as much as \$3,640. This is one area of the tax law in serious need of indexing for inflation, like the brackets for the regular income tax.

Congress also passed the [American Jobs Creation Act of 2004](#), and the President signed it October 25. Significant provisions appearing in the Conference Committee Report include:

The Bill *extends* the increased section 179 deduction of \$100,000 for property placed in service in taxable years beginning before **2008**. Notably, the Bill limits the ability of taxpayers to claim deductions under section 179 to \$25,000 for certain vehicles *not subject* to section 280F.<sup>1</sup> The provision, *effective on enactment*, applies to sport utility vehicles rated at **14,000 pounds** gross vehicle weight or less (in place of the present law 6,000 pound rating). The Conference Committee provided this example:

“Assume that during 2005, a calendar year taxpayer acquires and places in service a sport utility vehicle subject to the provision that costs \$70,000. In addition, assume that the property otherwise qualifies for the expensing election under section 179. Under the provision, the taxpayer is first allowed a \$25,000 deduction under section 179. The taxpayer is also allowed an additional first-year depreciation deduction (sec. 168(k)) of

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<sup>1</sup> Passenger cars generally *are subject* to 280F.

\$22,500 based on \$45,000 (\$70,000 original cost less the section 179 deduction of \$25,000) of adjusted basis. Finally, the remaining adjusted basis of \$22,500 (\$45,000 adjusted basis less \$22,500 additional first-year depreciation) is eligible for an additional depreciation deduction of \$4,500 under the general depreciation rules (automobiles are five-year recovery property). The remaining \$18,000 of cost (\$70,000 original cost less \$52,000 deductible currently) would be recovered in 2006 and subsequent years pursuant to the general depreciation rules.” *Comment: Under prior law, the entire \$70,000 could have been written off in 2005.*

The temporary provision allowing 50% of qualified leasehold improvements and other qualified property to be written off **was allowed to expire as of December 31, 2004**. This provision had applied to most equipment, furniture and automobiles. *This legislation eliminates the additional deduction for depreciation on the purchase of passenger automobiles unless purchased **before** December 31, 2004.* Importantly, the Bill provides a **15-year** recovery period for qualified leasehold improvement property placed in service before January 1, **2006** in place of the present 39 year. The provision requires that qualified leasehold improvement property be recovered using the straight-line method.

Finally, new limits will be placed on the donations of used cars to charities!

### **Massachusetts**

As part of its ongoing effort to shift the cost of tax administration onto the private sector, the Commonwealth has indicated it may require tax preparers such as our firm to file your return electronically **and** require that you pay any balance due electronically. As of January 1, 2005, any **corporation** with more than \$100,000 in receipts must file extension requests electronically and make any accompanying payment electronically.

Estate and Trust Income formerly taxed to the Trust or Estate, is now generally taxable *directly to the Beneficiaries* as of January 1, **2005**, and the Estate or Trust will be required to withhold estimated tax for the Beneficiaries during 2005 only.

The legislature also passed a comprehensive revision of the Business Corporation Act. Although we recommend that you consult with your attorney concerning the changes, we do observe that all corporations are now required to designate a Resident Agent. The form for doing this was located at <http://www.sec.state.ma.us/cor/corpdf/156d501.pdf> when this memo was prepared. If not filed electronically, the fee is \$25. You can go to <http://www.sec.state.ma.us/cor/coridx.htm> and select **filing online** if you have registered with the state for electronic filing. You can register at <https://wfb.dor.state.ma.us/webfile/Business/Public/Webforms/Login/Login.aspx>.

Sincerely,

*Dietrich & Wilson, PC*

Dietrich & Wilson, PC  
Certified Public Accountants