THE
SMALL BIZ BUILDER

PADGETT THE SMALL BIZ PROS

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THIS MONTH:

Opening of the 2013 Tax Filing Season

After the late tax law changes made by Congress under the American Taxpayer Relief Act, the IRS began processing 1040 returns on January 30th. This allows the vast majority of individual filers to begin filing returns. This includes more than 120 million households that can file electronically or on paper. The IRS began accepting business returns on February 4th, including forms 1120, 1120S, 1065, and 990. However; the filing of returns (individual and business) that include certain forms will be delayed until March. These forms include (among others):

Form 8582 *Passive Activity Loss Limitations*
Form 8903 *Domestic Production Activities*
Form 3800 *General Business Credit*
Form 5695 *Residential Energy Credits*
Form 4136 *Credit for Federal Tax Paid on Fuels*
Form 8839 *Qualified Adoption Expenses*

Updated information will be posted on www.irs.gov as it becomes available.

Estimated Payment Relief for Farmers and Fishermen

IRS Notice 2013-5 provides guidance for farmers and fishermen who will miss the March 1st deadline for estimated taxes because of filing delays stemming from the late enactment of the American Taxpayer Relief Act (ATRA). Farmers and fishermen will not be subject to the penalty if they file and pay by April 15th, 2013. A taxpayer qualifies as a farmer or fisherman for the 2012 tax year if at least two-thirds of the taxpayer's total gross income was from farming or fishing in either 2011 or 2012.

Farmers and fishermen requesting this penalty waiver must attach Form 2210-F to their tax return. The form can be submitted electronically or on paper. The taxpayer's name and identifying number should be entered at the top of the form, the waiver box (Part I, Box A) should be checked, and the rest of the form should be left blank. Forms and additional guidance can be found on the IRS website at www.irs.gov .

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Business Provisions of the American Taxpayer Act

Favorable business provisions in the American Taxpayer Relief Act (ATRA), which was passed by congress on January 1st and signed by the President on January 2nd, 2013 include:

◊ The **Section 179 expensing election** for purchase of certain property placed in service during 2012 and 2013 has been retroactively increased to $500,000. Phase out of Section 179 expensing begins when $800,000 of assets are purchased. Certain real property up to $250,000 can also be expensed. Carryovers of unused Section 179 amounts are not permitted after 2013 and regular depreciation rules (MACRS) will apply.

◊ The **15 year straight-line depreciation** for qualified leasehold improvements, qualified restaurant buildings and improvement, and qualified retail improvements has been extended through 2013.

◊ **The ATRA also extends the following business and energy provisions through 2013**:

- Work Opportunity Credit
- Extension and modification of Research Credit
- Indian Employment Credit
- Employer Wage Credit for active duty military members
- Enhanced charitable deduction for contributions of food inventory
- 100% exclusion of gain on certain small business stock
- 5 year S-corporation recognition period for built-in-gains tax
- 50% bonus depreciation
- Energy efficient existing homes credit
- Energy efficient new homes credit
- Energy efficient appliances credit
- Alternative fuel vehicle refueling property credit
- 2 or 3 wheeled plug-in electric vehicles credit
- Biodiesel and renewable diesel credit

Charitable Contributions Require Adequate Substantiation

Contributions of more than $250 to churches or other charities must meet the IRS substantiation requirements. It is inadequate to use copies of cancelled checks alone. Proper substantiation must be provided in writing by the charitable entity before the deduction can be taken. The written acknowledgement *must* state whether or not the taxpayer received any goods or services in return for the contribution. A recent tax court case has shown the hard line stance which the IRS is taking on this issue (TC Memo 2012-140, Durden and Durden vs. Commissioner of Internal Revenue).