



# *SBLC WEEKLY*

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## ***ALL IN?***

The President has offered his plan for a new stimulus effort. Within five minutes, there was a slew of press releases from Democrats praising it and from Republicans criticizing it. Washington – the home of all partisan, all day and all night. Having said that, I think there is a good chance Congress will pass some variation of the tax relief.

What's in it for small business?

### **Payroll Tax Relief**

The President has proposed that employers get a reduction in their “payroll” taxes on the first \$5 million of wages paid. While everybody is using the term “payroll” tax, we know that there are actually two separate taxes included in the federal “payroll” tax. The President is proposing a cut in one – what we commonly refer to as the “social security” tax. The Federal Insurance Contributions Act (FICA) is comprised of the Social Security (6.2 percent) tax and the Medicare (1.45 percent) tax. Occasionally, you will see the acronyms OASDI (Old-Age, Survivors, and Disability Insurance) for the social security

portion and HI (Hospital Insurance) used for the Medicare portion. Employers are required to withhold 7.65 percent for FICA from gross compensation of employees and pay a comparable percentage for each employee. The President is proposing that the employer pay only 3.1 percent of the employer's share of the social security tax for 2012.

Employers and employees “only” pay the social security tax on wages below a certain level. There is an annual income cap for the social security portion of FICA. It is \$106,800 for 2011.

The President is trying to limit the benefit to small employers so he is proposing the relief apply to only the first \$5 million in wages. A \$5 million payroll is a pretty big small business.

I haven't seen the language but I am assuming the self-employed will be eligible for this reduction as well as for the reduced “employee” portion also proposed by the President. The self-employed essential pay both halves of the “payroll” tax.

The President is proposing to extend and expand the current temporary “payroll tax” break for

employees. It currently is a two percent reduction in the social security tax. He would increase it to a 3.1 percent reduction for 2012.

### **New Hires and Increased Wages**

The President has proposed a complete refund of the social security taxes paid by an employer on the wages of added workers or wage increases for current workers above the level of this year's payroll. This payroll tax relief would be capped at applying to \$50 million in new wages (I am sure no small business is going to bump up against this cap). There would be additional targeted tax cuts for hiring the long-term unemployed as well as veterans who have been out of work six months or more.

### **Full Expensing**

The President has proposed the extension of the current temporary 100 percent first year full expensing. This is not Section 179 expensing but the full expensing based on the depreciation “bonus” concept. Section 179 still exists but as the result of legislation last year, for practical purposes, hardly anyone will use it this year.

As you may recall, Section 179 has two components to its structure. It allows a business to write off a certain amount of a purchase of machinery or other assets in the first year. However, the more a business buys in a year, the smaller the amount that can be written off by Section 179. After a certain amount of assets are purchased, only regular depreciation can be used.

In recent years, Congresses and Presidents have given us depreciation “bonuses” that allow more to be written off in the first year. The significance of it is that the business is not constrained by the amount of machinery bought in the year. The business can write off essentially everything purchased.

When Congress passed and the President signed into law, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act, Public Law 111-312 on December 17, 2011, they went for the whole enchilada (as the expression goes). The law extended and expanded the additional first-year depreciation “bonus” to equal 100 percent of the cost of qualified property placed in service after September 8, 2010 and before January 1, 2012. So as a result, while Section 179 is still on the books, the full expensing makes it a moot point for most business – for this year.

The President's new proposal would extend the 100 percent full first year expensing through 2012.

### **Prompt Pay**

The President will take an administrative step to accelerate government payments to small contractors “to help put money in their hands faster.” The good news about that pronouncement is that it should facilitate the passage of the repeal of the three percent withholding on government contractors that House Majority Leader Eric Cantor (R-VA) had previously indicated was in the House’s queue. Otherwise, it would seem counterproductive to speed up payment and then take three percent off the top.

### **Infrastructure**

The President’s plan includes \$50 billion in immediate investments for highways, transit, rail and aviation.

The President is asking for a temporary increase in the limit on SBA-guaranteed surety bonds from \$2 million to \$5 million to increase the small business opportunities to bid on infrastructure work.

The President is calling for Congress to pass a National Infrastructure Bank (NIB) capitalized with \$10 billion. While the NIB would be a government-owned entity, it would not be controlled by any federal agency and instead would operate independently. No more than four voting members of its seven member board could be from the same political party. Board members would have to possess significant expertise either in the management of a relevant financial institution or in the financing, development, or operation of infrastructure projects.

The NIB would issue loans and loan guarantees to eligible projects. Loans issued by NIB would use approximately the same interest rate as similar-length United States Treasury securities and could be extended up to 35 years, giving the NIB the ability to be a “patient” partner side-by-side with State, local, and private co-investors. To maximize leverage from Federal investments, the NIB would finance no more than 50 percent of the total costs of any project.

### **The Hard Part**

According to the Administration: “To ensure that the American Jobs Act is fully paid for, the President will call on the Joint Committee to come up with additional deficit reduction necessary to pay for the Act and still meet its deficit target. The President will, in the coming days, release a detailed plan that will show how we can do that while achieving the additional deficit reduction necessary to meet the President’s broader goal of stabilizing our debt as a share of the economy.”

### ***PATENT SYSTEM REFORM***

Congress has passed the reform bill and sent it to the President who has indicated he will sign it and could do so as early as today.