



# From the Desk of Dean Zerbe.



## Relief For Small Business? Not Much.

by Dean Zerbe

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While there have been good words from the new administration about helping small businesses, the stimulus package now working its way through Congress doesn't have much tax relief in it for small and medium businesses.

Businesses need tax incentives that will put money in their pockets right now. Yet few of the tax provisions being considered accomplish that to any significant degree.

True, the net operating loss carry-back proposed by House Democrats will be of help to some businesses that pay corporate tax, allowing them to collect refunds on taxes paid during previous profitable years. But the vast majority of small businesses operate as "pass-through" entities -- Subchapter S corporations or partnerships that pass through all their earnings and losses to their owners' individual tax returns. These businesses won't benefit from the carry-back.

Other proposals would allow all businesses buying new equipment to accelerate depreciation and small business to expense (meaning write off immediately) up to \$250,000 in capital investment.

A nice thought, but that's only a help to a small business that has access to the credit or capital to make such investments. Right now, few of them do. Money is so tight, fast-food restaurants can't even get a loan to upgrade their coffee machines.

Candidate Barack Obama talked of one idea that might draw some new cash into small business: a zero rate on capital gains from investments in new small businesses. Unfortunately, we've not heard about that proposal again from President-elect Obama.

Yet another idea that has been talked about in Washington and would help every small business' cash flow is a payroll tax holiday for employers. Unfortunately, it hasn't shown up in the Democrats' stimulus proposals.

So there doesn't look to be much help for small business on the way. One small bit of good news: Given the economic situation, the Obama administration is not going to raise taxes on owners of small and medium businesses in 2009.

After 2009, however, the outlook is not rosy. It is widely expected that the top two individual income tax rates on ordinary income, now 33% and 35%, will rise to 36% and 39.6% when the Bush tax cuts expire at the end of 2010. (That's where they were at the end of the Clinton administration.) The top capital gains rate will rise to 20% from 15%.

Another problem: Congress is likely to continue to delay finding a permanent solution to the individual alternative minimum tax. The problem the AMT causes upper-middle income households is widely known. But Washington is mostly unaware that due to the individual AMT a large number of small businesses cannot take full advantage of such incentives as the research and development tax credit and the credit for employer-provided childcare.

It is unconscionable that a struggling small business can't take full advantage of tax incentives that benefit big business. A big help would be to allow small businesses to take these incentives fully now and for all still open past tax years. This would allow small businesses to make refund claims and would put significant dollars in their pockets right now.

Meanwhile, the estate/death tax will continue to be a frustration for family businesses. The odds are that Democrats will allow 2009 law -- a \$3.5 million exemption per estate at 45%--to stay in place, but only for two or three years. I am very concerned we won't see what small business owners need: certainty in the estate law. Uncertainty only increases the burden of estate planning and of preserving a family business from generation to generation.

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