

ARE THESE TAX CHANGES GOING TO AFFECT YOU?

By Toni Porter, CPA, MST, AEP

As is common, many changes in the tax law become effective in, expire during, or have been extended in any particular tax year. The following highlights several of these changes.

Extraterritorial Income Exclusion Repealed

The World Trade Organization (WTO) ruled in 2002 that the United States' Extraterritorial Income (ETI) exclusion regime is a prohibited export subsidy under the relevant trade agreements. In response to this ruling, the European Union has been imposing tariffs on U.S. goods since March of 2004. In order to comply with the WTO's ruling and end the tariffs, Congress passed the American Jobs Creation Act of 2004, which repeals the exclusion for ETI, effective for transactions occurring after December 31, 2004.

While the effective date of the repeal was December 31, 2004, Congress has provided transition rules for 2005 and 2006. For transactions that occur on or after January 1, 2005 and on or before December 31, 2005, you may still exclude 80 percent of your ETI from gross income. For transactions occurring on or after January 1, 2006, and on or before December 31, 2006, you may exclude 60 percent of your ETI. The repeal and transition provisions will not apply to transactions between you and an unrelated party if there was a binding contract in place on September 17, 2003 and all times thereafter.

A foreign corporation that elected to be treated as a domestic corporation for federal tax purposes in order to facilitate claiming ETI benefits, may revoke this election within one year of the date of enactment of this legislation without recognizing any gain or loss on

transferred property. This tax-free revocation is only applicable to property acquired during a tax year in which you had a valid election in place and before May 1, 2003.

Sec. 179 Expensing Increases Extended

The American Jobs Creation Act of 2004 (Jobs Act of 2004) includes a provision to extend the increase in the depreciation expensing deduction of up to \$100,000 of qualifying property to tax years beginning before 2008. The increase in the limitation on new investment (the point at which your depreciation expense deduction begins to phase out) is also extended for the same period.

Prior to the passage of this legislation, the increased expense deduction of up to \$100,000 for qualifying assets was scheduled to revert back to its pre-2003 level of \$24,000 for tax years beginning after 2005. Similarly, the phase-out of this deduction, which begins with every dollar spent over \$400,000, was scheduled to revert to its pre-2003 level of \$224,000 after 2005.

Taxpayers may wish to take advantage of the extended deduction and purchase limits in their tax years beginning before 2008. If they were planning purchases in 2005 that would have exceeded the limit for that year, they may consider postponing some of them to the extent possible to take full advantage of the deduction for the purchase price of these assets.

Additional First-Year Depreciation Allowance (Bonus Depreciation) Expires

Bonus depreciation was an additional 30 percent first-year depreciation allowance created by the Job Creation and Worker Assistance

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Act of 2002. The Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the bonus depreciation rate from 30 percent to 50 percent.

The rate that applies depends upon the acquisition date of the qualifying property. In general, the 30 percent rate applies to property acquired after September 10, 2001, and before May 6, 2003. The 50 percent rate applies to property acquired after May 5, 2003, and before January 1, 2005. No bonus depreciation may be claimed on qualifying property unless it is placed in service before January 1, 2005. The placed in service date is January 1, 2006, for certain property with a long production period and noncommercial aircraft.

This tax break expired and at this time is not scheduled to be extended.

New Deduction for Manufacturers

Even if you don't think you are a manufacturer, this new deduction may be for you. Four years ago, the World Trade Organization declared the FSC/ETI (foreign sales corporation/extraterritorial income) tax regime for exporters an illegal trade subsidy and began to slap high fines on those businesses. In response, Congress has repealed that system over a four-year period. In its place, it approved a new deduction for manufacturers.

The new deduction for manufacturers, which itself is phased in gradually over six years, surprised many experts. It covers all income from manufacturing in the United States, not only from export businesses. It represents up to a 3 percentage point drop in a business's effective tax rate. What's more, "manufacturing" is defined very broadly to include not only traditional manufacturing, but also construction, engineering, energy production, computer software, filmmaking, and the production of agricultural products. Corporations, individuals, S corporations, partnerships, estates,

trusts, and cooperatives can take advantage of the new deduction.

The SUV Deduction

Large sports utility vehicles and luxury passenger trucks will no longer be able to be driven through a large tax loophole by business owners. Because the vehicle caps on depreciation do not apply to cars or trucks weighing more than 6,000 pounds, taxpayers could deduct up to the full cost of the SUV immediately as a section 179 deduction. Now the deduction for vehicles weighing not more than 14,000 pounds is capped at \$25,000, effective for property placed in service after October 22, 2004. However, that is still a lot more than the cap placed on "regular vehicles," which hovers around the \$3,000 level.

Tax Breaks for Farmers

Agribusiness as well as traditional farmers make out well under the new tax laws. In addition to qualifying the production of agricultural products as "manufacturing" eligible for the three-percent corporate tax reduction, the new law adds over 20 agricultural tax breaks and incentives to the Code, including significant provisions affecting weather-forced livestock gain and the alternative minimum tax as applied specifically to the usual ups and downs of farm income from year to year.

Extended Business Credits and Deductions

The Working Families Tax Relief Act of 2004 was not just for families. An entire section of this new law extends over 20 temporary business incentives which either had expired at the end of 2003 or at the 2004 midpoint. These include the research credit, the welfare-to-work and work opportunity tax credits, environmental remediation expensing (which is extended for expenses paid or incurred after 2003 and before 2006), and the renewable source energy credit.

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BALLANTINE PRODUCE COMPANY IS 2005 AG BUSINESS AWARD RECIPIENT

Baker, Peterson & Franklin, Certified Public Accountants, is pleased to announce the recipient of the 2005 Baker, Peterson & Franklin Ag Business Award is Ballantine Produce Company of Sanger and Reedley.

Ballantine Produce Co. exemplifies a leading for-profit ag organization whose achievements and impact have significantly contributed to the ag industry and the Central Valley. The Baker, Peterson & Franklin Ag Business Award honors a for-profit service or product-related agribusiness or farming entity headquartered in the Central San Joaquin Valley. The award recipient is selected by a committee representing the local agribusiness industry and the BP&F Ag Department. The past nine recipients are Woolf Enterprises of Fresno, Producers Dairy Foods of Fresno, P-R Farms of Clovis, J&L Vineyards of Fresno, Fowler Packing Company, Joseph Gallo Farms of Atwater, Wawona Frozen Foods of Clovis, Wilbur-Ellis Western Division, and Zacky Farms of Fresno.



Established in 1943 as a partnership between a grower, a marketer and a wholesaler, Ballantine Produce was formed to meet the overwhelming demand for fresh produce at the end of World War II. An original owner also owned a beverage distributorship that delivered for Ballantine Ale Co., and the Ballantine name was chosen to capitalize on the popularity of the beer. In 1951, the business was purchased by the Albertson Family and a partnership was created with Virgil Rasmussen and Ed Schoenburg to operate and manage the business.

With the motto "Service First," Ballantine has grown into one of the largest and most respected producers and shippers distributing over 10 million packages of over 200 varieties of fruit world wide. Ballantine farms over 5,000 acres of tree fruit and grapes, including 125 contracted growers. They maintain over 400,000 square feet of production facilities in California, and employ 100 full time people and 2,000 seasonal workers. The company has redeveloped the majority of its domestic acreage with innovative and great eating fruit varieties and post harvest quality management solutions.

Ballantine is an active member of the Ripe'n Ready® coalition, the leading provider of an improved taste strategy for stone fruit consumption. Ballantine's dedication to high flavor farming has placed it as a first choice for customers seeking delicious California fruit. Dedicated to delivering taste, freshness, and satisfaction to its customers, the company is developing supply chain solutions, including vendor managed inventory services and category management programs to ensure greater customer satisfaction and value. Focused on brand building and customer loyalty, Ballantine also engages in developing merchandising strategies, logistics and new technologies for the retail produce industry, including advanced traceability systems.

Ballantine's over half century of civic commitment to the Valley has been demonstrated by volunteering time, providing leadership, and generously donating to industry associations, education, and health organizations. Ballantine holds leadership positions with the key industry associations such as California Grape and Tree Fruit League, California Table Grape Commission and the California Tree Fruit Agreement. They have been long-time contributors to the

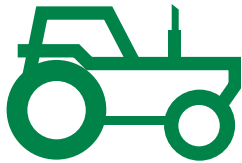
Ballantine Produce was formed to meet the overwhelming demand for fresh produce at the end of World War II.

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Sanger School District, Reedley College, Fresno State, and many other important causes. This year, President Virgil Rasmussen was the honoree of the Ag One Community Salute. Due to the dedication and work of several Ballantine principals, a new record of \$74,000 was raised for his endowment fund. Virgil was a founding director of Ag One, and because of his vision and leadership \$200,000 will be awarded this year to Fresno State Ag Science & Technology students.

Ballantine’s longevity and continued growth are due to their attention to the science and art of farming, disciplined management practices, and being abreast of trends affecting the produce business. Ballantine Produce has a long and distinguished record of positive leadership, entrepreneurship, and service to the agriculture industry and our community making them the 2005 Baker, Peterson & Franklin Ag Business Award recipient.

Ballantine Produce Co. was honored at the Fresno Chamber of Commerce Ag Awards Luncheon on Wednesday, November 16 at the Fresno Fairgrounds Junior Exhibits Building. The 2005 Agriculturist of the Year, Vernon Conrad, was also honored at the event.



Revenue Raisers

Not all of the provisions in the new tax laws are favorable. Over \$100 billion in “revenue raising” provisions temper the celebration. These provisions also form a long list and need to be monitored. Under the new legislation, tax shelter investors have been asked to pay up with increased penalties; the personal use of company aircraft by the company’s executive/owners can no longer be deducted by the business in an amount that is greater than what is considered compensation to the employee; and the size of vehicle donations, whether by a business or an individual, also has been severely restricted, effective starting in 2005.

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An invitation

The latest tax laws are about change—over \$200 billion for business doled out by more than 700 pages of amendments to the Internal Revenue Code. Change brings new opportunities, new headaches, new pitfalls, and new reasons to revisit previous plans and strategies. Fortunately, the latest tax laws easily tip the scales toward the positive and overall promise “to put more money in your pocket.” Please give our office a call at (559) 432-2346. We can schedule an appointment to discuss what steps to take for you and your business to maximize the tax benefits in the new tax legislation.

FOOD FOR THOUGHT: COULD YOUR BUSINESS RECOVER FROM A DISASTER?

By Nancy Ervin, AVA, MBA, Business Consultant

What is the world coming to? Hurricanes, earthquakes, mudslides... Alan Greenspan retiring? Is this the end of times!?

No, I do not believe the Apocalypse is upon us, but the recent rash of natural (and man-made) disasters does provide some food for thought. *Is your business ready should disaster strike?*

Research shows that 80% of businesses will fold within two years of a disaster through the combination of a lack of planning, negative publicity, damage to reputation and the loss of skilled personnel.¹

Of course, a disaster need not be anything as dramatic as a terrorist attack. It could be as simple as an office fire, storm or flood damage, hardware or software failure, power disruptions, theft, industrial sabotage or vandalism—rendering your business inoperative.

Agriculture has always been particularly vulnerable to natural disasters. Last year, hurricanes across Florida caused \$2 to \$3 billion in damages to crops and infrastructure, and spun the price of fresh tomatoes from \$1.50 – \$2 a pound to as much as \$4 – \$5 a pound.² Okay, so some of you tomato growers weren't complaining, but that price jump really put a dent in my antipasto.

At least we don't have to worry about hurricanes in California. But keep this in mind, way back in 2001, the Federal Emergency Management Agency ranked the potential damage to New Orleans as among the three likeliest, most catastrophic disasters facing this country.³ The other two? A terrorist attack on New York City, and a massive earthquake in San Francisco.

And apparently, now we have to add agri-terrorism to the list of potential disasters.

In what ever form, disasters jeopardize the very

survival of companies. While it might seem obvious, investment in a recovery plan is essential. And even though many small businesses might lack the budget required for a disaster recovery suite, there remains a variety of low cost, practical measures that can be undertaken with immediate effect. Chief among these is that companies take action to back up their data on a regular basis. It is also a good idea to establish procedures to transfer phone lines to another location in the event of a disaster to ensure continuity in communication, not only with clients, but with displaced employees as well.

Creating a Disaster Recovery Plan

The first step in creating a disaster recovery plan is to determine who to involve in developing the plan. Top management, key employees and a consultant to provide technology expertise should all play a role. The second step is to perform a risk assessment. Evaluate the potential areas of business disaster and rate scenarios by likelihood of occurrence and by the level of impact they'd have on your business. Third, develop recovery strategies. Consider every element of your business that would allow it to operate after disaster strikes. Finally, the written plan should include the following elements:

- Immediate response after a destructive event
- Evacuation of facility and notification to emergency services
- Notification sequence for team leaders and backups
- Establishing a temporary Business Recovery Command Center

Research shows that 80% of businesses will fold within two years of a disaster.

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Ensure continuity in communication, not only with clients, but with displaced employees as well.

- Preliminary and detailed damage assessment
- Recall of vital records from off site storage
- Handling legal, financial and insurance issues
- Dealing with the news media to mitigate misinformation
- Locating interim facilities to restart your business
- Recovery of PCs, LANs and mid-range systems
- Establishing voice and data communication
- Addressing human resource and accounts payable/receivable issues
- Replacement of equipment, furniture and supplies
- Notification to clients, customers, suppliers and stockholders
- Restarting your business
- Reconstruction of the damaged or destroyed facility

The most effective disaster recovery plans require detailed forward planning and rehearsal. But when you realize that a company's reputation, customer base and, of course, revenue and profits are at stake, is there really any other alternative?

Footnotes

¹ Muir, Graeme, "Best Be Ready for the Worst Case Scenario," Business.scotsman.com, February 26, 2005.

² Schneider, Mike, "Florida Farmers Staggered by Wilma," Associated Press, October 26, 2005.

³ Berger, Eric, "Keeping Its Head Above Water," Houston Chronicle, December 1, 2001.

STAFF NEWS

BP&F is pleased to announce Gwun Lee, CPA, has been hired as a Senior Accountant in the Tax department. Prior to BP&F, she worked for a tax practitioner for 3½ years. Gwun graduated from Fresno State with a business degree emphasis in accounting, and is currently working on her Master of Taxation degree.

Susan Woods, CPA was recently hired as a Manager in the Tax department. Susan attended Fresno State and obtained a degree in business and her CPA license in 1993. She is a member of the California Society of CPAs and the AICPA. Her 20 years of experience includes tax, consulting and estates & trusts.

Erin Tranbarger, CPA, joins us as Senior Accountant in the Accounting & Assurance department. She has 5 years experience working in public accounting, the last 2 years as an Audit Senior Associate with PriceWaterhouseCoopers in Los Angeles. Erin is a graduate of UC Santa Barbara with a business economics degree, emphasis in accounting.

Baker Peterson & Franklin congratulates Claudia Ruiz, CPA, and Janell Attebery who were both promoted to Senior II Accountants in the Accounting & Assurance department. Claudia began working at BP&F in 2001, and has worked with many agricultural clients. Janell grew up on a dairy in Chowchilla, and joined BP&F in 2003 after working for Ernst & Young in San Jose for 3 years.

Congratulations to Stephen Nazaroff who recently received his Certified Public Accountant license. Stephen grew up on his family's raisin farm in Kerman, and graduated from Fresno State with a degree in business, emphasis in accounting. He was a student intern at BP&F, and was hired full time in June 2002.

COMPILATIONS, REVIEWS & AUDITS

By Joanne Riester, CPA, MBA

What happens when your lender asks for a review report on your financial statements instead of a compiled report? What type of report could you ask your CPA to add to your financial statements? Why would you ever request an audit?

In order to answer these questions, you must first know the difference between a compilation, review and audit report. No matter which report you choose, your financial statements will have the same numbers, the same disclosures (if included), and the same format. The difference will be in the level of assurance the reader can place on those numbers. This level of assurance will depend upon the type of report.

Compilation – When CPAs issue a compilation report, they present information that you provide in the form of financial statements (which may or may not include disclosures at your option). The accountant does not express any opinion or assurance on the statements. This means because they do not perform any procedures to ensure the accuracy of the numbers, they don't include in their report an opinion on those numbers.

Review – In a review engagement, the CPA inquires and performs certain procedures in order to have a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements and disclosures.

Audit – The objective of an audit is for the CPA to express an opinion that the financial statements are free of material misstatement. In order to express this opinion, the auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements.

Some of the reasons you may request an audit are to meet statutory and/or regulatory requirements, to obtain financing, to deter inefficiency and fraud, or to make improvements to operations or the systems of controls in your accounting department.

Preparation of the financial statements is your responsibility. The CPA's responsibility is to compile, review or audit those financial statements and report the findings. During the course of the engagement, the CPA may suggest adjustments to your financial statements, but you are responsible for all decisions concerning the form and content of those statements.

The next time you pick up your financial statements, read the CPA's report and notice the level of assurance provided. If you determine you may need a higher level of assurance on those financial statements, let us know and we can explain in more detail the information required in order for us to provide you with the level of assurance and report you need.



CALENDAR

- November 24** Thanksgiving (BP&F office closed the 24th and 25th).
- December 25** Christmas (BP&F office closed the 26th).
- January 1** New Years Day (BP&F office closed the 2nd).
- March 1** Due date for tax returns of taxpayers filing as farmers.
- March 15** Due date for tax returns of calendar year-end corporations.
- April 7** Common Threads Luncheon. Further information or applications to nominate a candidate, contact Christy Melvold at (559) 278-4266.
- April 15** Due date for individual tax returns.

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