

Description of the “Small Business Jobs Act”

June 8, 2023

Sec. 2. Increase in threshold for information reporting on Form 1099.

The provision increases the general reporting threshold for a service-recipient taxpayer for services performed by an independent contractor or subcontractor from \$600 to \$5,000 and adjusts the amount for inflation thereafter.

Sec. 3. Restoration of reporting rule for third party network transactions.

The provision modifies the reporting threshold for information reporting on Form 1099-K. In prior years, taxpayers received Form 1099-K for goods and services sold online only after exceeding the following thresholds: (1) \$20,000 in annual sales and (2) 200 in annual transactions. The *American Rescue Plan Act of 2021* (P.L. 117-2) reduced the annual sales threshold to \$600 and eliminated the transaction threshold. This section repeals the change in P.L. 117-2 as if it were never enacted.

Sec. 4. Modification to exclusion for gain from qualified small business stock.

The provision expands the exclusion from gain from qualified small business stock under IRC § 1202 in three respects. First, the holding period is modified by providing a new 50 percent exclusion for stock held at least 3 years, and a 75 percent exclusion for stock held at least 4 years. Stock held at least 5 years would continue to be eligible for a 100 percent exclusion. Second, expands qualification to S corporations. Finally, allows investors to add their holding period for qualified convertible debt to the holding period required to qualify for the exclusion.

Sec. 5. Increase in limitations on expensing of depreciable business assets.

Under IRC § 179, a taxpayer may elect to expense the cost of qualifying property, rather than to recover such costs through tax depreciation deductions, subject to limitation. Under current law, the maximum amount a taxpayer may expense is \$1 million of the cost of qualifying property placed in service for the taxable year. The \$1 million amount is reduced by the amount by which the cost of such property placed in service during the taxable year exceeds \$2.5 million. The \$1 million and \$2.5 million amounts are adjusted for inflation for taxable years beginning after 2018. In general, qualifying property is defined as depreciable tangible personal property, off-the-shelf computer software, and qualified real property that is purchased for use in the active conduct of a trade or business.

The provision increases the maximum amount a taxpayer may expense to \$2.5 million, reduced by the amount by which the cost of qualifying property exceeds \$4 million. The \$2.5 million and \$4 million amounts are adjusted for inflation for taxable years beginning after 2024. The proposal applies to property placed in service in taxable years beginning after December 31, 2023.

Sec. 6. Establishment of rural opportunity zones.

The provision provides for temporary deferral of inclusion in gross income for capital gains reinvested in a qualified rural opportunity fund and the permanent exclusion of capital gains from the sale or exchange of an investment in the qualified rural opportunity fund, following the structure of opportunity zones created in the *Tax Cuts and Jobs Act* (P.L. 115-97).

The provision allows for the designation of certain rural persistent poverty community population census tracts as qualified rural opportunity zones. The legislation defines persistent poverty as determined by the Census Bureau using the same methodology and data as was used in their May 2023 report titled, “Persistent Poverty in Counties and Census Tracts,” and rural is defined as any county that is comprised of more than 50 percent rural census blocks as defined by the Census Bureau. The designation of a population census tract as a qualified rural opportunity zone remains in effect for the period beginning on the date of the designation and ending at the close of the tenth calendar year beginning on or after the date of designation.

The provision defines qualified rural opportunity fund as an investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified rural opportunity zone property (other than another qualified rural opportunity fund, or an existing qualified opportunity zone property or qualified opportunity zone fund) that holds at least 90 percent of its assets in qualified rural opportunity zone property.

Sec. 7. Information reporting on qualified opportunity funds and qualified rural opportunity funds.

The provision reinstates reporting requirements for qualified opportunity zones and applies these rules and reporting requirements to qualified rural opportunity zones. It also imposes penalties for noncompliance with such requirements.