



## Summary of Small Business Jobs Act of 2010 (H.R. 5297)

### Title 1 – Small Business Administration Lending

- **Guarantee level.** Increases guarantee level of SBA 7(a) loans from 75 percent to 90 percent.
- **Loan limits.** Increases 7(a) loan limits from \$2 million to \$5 million, 504 loan limits from \$1.5 million to \$5.5 million, 7(a) Express Loans from \$300,000 to \$1 million, and microloans from \$35,000 to \$50,000.
- **Borrower fees.** Extends waiver of borrower fees on 7(a) and 504 loans through 2010.
- **Exports.** Expands SBA trade and export finance programs.
- **Alternative size standards.** Directs the SBA to set alternative size standards for 7(a) and 504 borrowers based on net worth and net income. Present size standards are based on employees or annual receipts.

### Title 2 – Tax Provisions

*Provisions to promote investment and provide tax relief for small businesses*

- **100% exclusion of certain small business capital gains.** Increases capital gains exclusion from 50 percent to 100 percent for stock issued by qualifying small businesses and acquired between the date of enactment and the end of the year and held by the investor for at least five years. Eliminates tax preference item subject to AMT. Issuer must be a C corporation whose assets do not exceed \$50 million.
- **General business credit carryback.** Extends carryback period for general business credits from 1 year to 5 years for small businesses with less than \$50 million in general gross receipts. The general business credit would not be subject to AMT.
- **Built-in gains tax holding period.** When a C corporation converts to an S corporation, it must hold any appreciated assets for 10 years in order to avoid tax on the built-in capital gains at 35 percent. ARRA reduces this holding period to 7 years for assets sold in 2009 or 2010. The Act further reduces this holding period to 5 years for assets sold in 2011.
- **Section 179 expensing.** Increases Section 179 expensing from \$250,000 to \$500,000 for 2010 and 2011 and increase the threshold at which expensing phases out from \$800,000 to \$2 million. Expands the provision to cover improvements to some real property.
- **Bonus depreciation.** Extends 50% bonus depreciation through 2010.
- **Start-up deduction.** Increases deduction for start-up expenditures from \$5,000 to \$10,000 and increases phase-out threshold from \$50,000 to \$60,000 for tax years beginning in 2010.
- **Health insurance costs.** Allows self-employed business owners to deduct cost of family health insurance.
- **Cell phone deduction.** Deletes cell phones from the category of “listed property,” which is subject to limitations on deductibility when not used for business more than half the time.

### *Revenue provisions*

- **Information reporting for rental expenses.** Requires information reporting for rental property expense payments.
- **1099 penalties.** Increases penalties for failure to file information returns.

### **Title 3 – State Small Business Credit Initiative**

- Provides \$1.5 billion in grants to states to support small business lending programs.

### **Title 4 – Small Business Lending Fund and Other Small Business Provisions**

#### *Small Business Lending Fund*

##### *General*

- The Act authorizes \$30 billion for the Small Business Lending Fund, a capital program to be administered by the Secretary of the Treasury.
- During consideration before both the House and the Senate, sponsors of the Act stated for the record their intention that SBLF capital be treated as Tier 1 capital by all recipient institutions.
- SBLF participants will not be subject to TARP-type restrictions on compensation, dividends, use of generally available tax provisions, etc.
- The program capital may be returned without penalty and impediment if there is a change in law that materially and adversely impacts a participating institution.

##### *Eligibility*

- The fund will be used to purchase preferred shares or comparable instruments in eligible insured depository institutions, bank holding companies, savings and loan holding companies, and CDFIs. The eligibility maximum threshold is \$10 billion in assets.
- Institutions of less than \$1 billion in assets will be eligible for investments of up to 5 percent of risk-weighted assets.
- Institutions of between \$1 billion and \$10 billion in assets will be eligible for investments of up to 3 percent in risk-weighted assets.
- Treasury would be responsible for application approval in consultation with the banks' regulator.
- A small business lending plan must be submitted to the primary banks regulator at the time of application. The plan will be confidential supervisory information.
- Special "consideration" will be given to minority-owned institutions and institutions serving minority and low- and moderate income communities.
- Special "consideration" will be given to institutions serving Gulf Coast states directly affected by Deepwater Horizon oil spill.

- Existing CPP participants – provided they are current on dividend payments – are eligible to refinance their capital to the new program.
- Banks on the FDIC problem list (CAMELS 4 or 5) are not eligible. However, special consideration may be given for banks that are able to raise matching private capital.

#### *Incentives to lend*

- A baseline of the recipient's small business lending is established: The average small business lending reported in the call reports for the four full quarters immediately preceding enactment of the Act.
- SBLF funds carry a base dividend rate of 5%. During the first two-year period, the dividend rate will adjust according to lending activity in the prior quarter relative to the baseline.
- Each increase in small business lending of 2.5 percent relative to the baseline will reduce the dividend rate by 1%. (I.e.: 2.5% lending increase = 4% dividend; 5% lending increase = 3% dividend; 7.5% lending increase = 2% dividend; 10% lending increase = 1% dividend.) The minimum dividend rate is 1%. During the initial two-year period, the interest rate cannot increase above the initial 5%.
- After two years, the dividend rate is fixed according to lending activity in the eighth quarter relative to the initial baseline.
- If, in the eighth quarter, the lending activity has remained the same or decreased, the rate will be 7% until the expiration of the 4 ½ year period beginning on the date of the initial investment. This is the first time that the rate could go above 5%.
- Additional adjustments may be made to the initial rates to construct the tax-equivalent rate for Subchapter S banks and mutuals.
- After 4 ½ years, the rate increases to 9 percent, regardless of lending activity.
- The funds must be repaid in full after 10 years.

#### *Eligible lending*

- Small business lending includes (as defined by and reported in an eligible institution's quarterly call report):
  - Commercial and industrial loans;
  - Owner-occupied nonfarm, nonresidential real estate loans;
  - Loans to finance agricultural production and other loans to farmers;
  - Loans secured by farmland; and
  - Certain veteran-owned business loans.
- Loans above \$10 million or loans to businesses exceeding \$50 million in revenues are excluded.

#### *Administration*

- The program will be administered by the bank regulators and the U.S. Treasury Department. The bank regulators and Treasury will be responsible for crafting term sheets, rules, and

regulatory capital determinations. The program will be overseen by the Treasury Inspector General.

***Small Business Export Promotion Initiatives***

- Authorizes funds for the United States Trade Representative's market access and trade enforcement activities targeted at promoting small business exports.

**Title 5 – Budgetary Provisions**

- Specifies determination of budgetary effects of the Act.