

The Obama Small Business Recovery Plan

On March 16, 2009, amidst a veritable flurry of other plans announced to assist the recovery of various sectors of the U.S. economy, the Obama Administration announced guidelines for the assistance of small businesses; details will follow in the near future. It is universally conceded that small business is the principal engine for job creation in the United States. This is important given that unemployment rates in this country may rise to 10% before the end of 2009. Part of the problem is that there has been a general slowdown in the economy, depressing consumer demand for all types of goods and services. To add insult to injury, even credit-worthy small business owners now find it very difficult to obtain financing with which to fund their ongoing operations.

There are two principal elements of the Obama plan for small businesses. The first deals with providing these companies with additional tax relief. As soon as the new tax regulations have been finalized, "small businesses" (defined as those which earn up to \$15 million annually) will be able to:

- a. apply the "net operating losses" resulting from their business operations, if any, as a deduction towards their income over a time period of 5 years, instead of 2 years as per current law.
- b. take a deduction in the current year (i.e., treat as a current expense item), rather than just amortize over several years, of up to \$250,000 of an investment in capital goods. As for the remaining capital goods purchased, small businesses will be allowed to front-load their amortization schedules, and take larger depreciation deductions (in accordance with a formula yet to be specified) for the first year that the underlying property was purchased.
- c. reduce the payment of their estimated taxes to 90% (rather than 100%) of the prior year's taxes.
- d. for at least one year, 75% of any capital gains realized by any investor in a small business will be excluded from the calculation of the investor's income tax declaration.

The second aspect of the Small Business Plan involves additional funding of the Small Business Administration (SBA) in order to facilitate the extension of credit to small businesses. It also requires that the nation's 21 largest banks, which currently benefit from the bank recovery plan adopted by the U.S. Congress in 2008, provide public monthly reports of the total of their small business loans.

The funds for this effort will also come from the funds previously allocated by the U.S. Congress under the TARP (Troubled Asset Relief Program); specifically \$20 billion to bolster the secondary market for SBA loans and \$730 million to eliminate or reduce lending fees payable by the borrowers of SBA loans and issue higher percentage guarantees (90% rather than 75%-85%) of such loans.

Typically, the SBA guarantees loans to small businesses where the borrower cannot otherwise obtain conventional bank financing. SBA loans are usually capped at a 4% interest rate. And banks then sell the almost-wholly guaranteed mortgages to third parties. But the lack of third party financing at the present time is discouraging banks from making SBA loans, which are currently projected to be almost half of last year's total. The enhancements provided under the Obama proposal may make lending to small businesses more attractive to all banks, including those receiving financial assistance under TARP.