



BDO Seidman, LLP  
Accountants and Consultants

January 2005

## Subject:

# Accounting and Reporting Implications of the American Jobs Creation Act of 2004

# FASB Flash Alert

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## Summary:

The FASB has finalized two FSPs that relate to the American Jobs Creation Act of 2004. Companies will need to begin to account for the Act and apply the FSPs in 2004 and first quarter 2005. To help sort through the complexities, this Flash Report outlines key considerations to keep in mind over the next few months.

## Accounting Implications

Not surprisingly, the provisions with the greatest accounting implications are the same ones that provide the biggest tax cuts: (1) the tax deduction on qualified production activities, and (2) the one-time exclusion of 85% of repatriated foreign earnings from U.S. income taxes.

**FSP FAS 109-1 - Qualified Production Activities.** FSP FAS 109-1, "Application of FASB Statement 109, *Accounting for Income Taxes*, to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004," indicates that companies should account for this form of tax relief as a special deduction rather than as a rate reduction. Key points to keep in mind:

- ❖ The tax benefits should be recognized gradually, year-by-year, not as a large non-recurring adjustment. Any benefit reported from the deduction should be reported during the year for which the deduction is claimed on the tax return.
- ❖ There will be no immediate impact on deferred tax balances for most companies, and deferred taxes will continue to be provided at the statutory tax rate. Some companies may need to provide larger valuation allowances on net deferred tax assets due to lower future taxable income.

*Material Discussed in this newsletter is meant to provide general information and should not be acted on without obtaining professional advice tailored to your firm's individual needs.*

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## Details ...(continued)

### *FSP FAS 109-1 - Qualified Production Activities.*

- ❖ The impact on a company's effective tax rate may need to be considered when determining the estimated annual rate used for interim financial reporting. Separate disclosure in the effective tax rate reconciliation may be warranted.
- ❖ Due to the need for interpretations of a variety of issues, some companies may need to consider recording an accrual for a potential disallowance of deductions claimed under this provision of the Act.

***FSP FAS 109-2 - Earnings Repatriation Provision.*** FSP FAS 109-2, "Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004," provides companies with more time to evaluate the impact of the Act on their plans for reinvestment or repatriation of certain foreign earnings for purposes of applying Statement 109. Without an extension of time from the FASB, companies would have been required to apply Statement 109 in the period of enactment. Key points to keep in mind:

- ❖ Statement 109 requires recognition of a deferred tax liability for the excess of the book over the tax basis of investments in foreign subsidiaries or joint ventures. An exception is made for the excess attributable to undistributed earnings, if the parent company affirmatively asserts that the earnings are indefinitely reinvested outside its home tax jurisdiction.
- ❖ Although the FSP allows companies more time to decide how much will be repatriated and when, it does not relieve them of the requirement to record an appropriate deferred tax liability when they decide to repatriate earnings. Judgment may be required in some situations to determine the exact time at which a decision is made to repatriate earnings. Companies should not delay accruing a tax liability until a dividend has been declared or paid.
- ❖ Under the FSP, certain disclosure requirements apply until a company has decided whether to repatriate earnings under the Act.

### ***Other Points to Keep in Mind:***

Management will need to evaluate compliance with the provisions of the Act to ensure that repatriated earnings qualify for the beneficial tax treatment. Some key points to consider:

- ❖ The dividends must be invested in the U.S. under a domestic reinvestment plan. The Act requires approval of the plan within required time periods by the CEO (or comparable official) or the board of directors.
- ❖ The funds must be used for certain qualifying activities. The plan should specify the nature of the activities. Examples of qualifying activities include funding of worker hiring and training, research and development, and capital investments that help stabilize the corporation for purposes of job retention and creation.

Public companies subject to Section 404 reporting will want to evaluate the controls in place to provide reasonable assurance over the timely and accurate reporting of any changes in income taxes that may result from changes in reinvestment or repatriation plans.

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