Craft Brewery Tax Strategies – Using P.A.T.H. to Reduce Your Taxes

On December 18, 2015, Congress passed a $1.1 trillion tax and spending bill that contains major benefits to craft brewers and the brewing industry. The Protecting Americans from Tax Hikes (PATH) Act of 2015 extended some tax laws and made some tax laws permanent that may significantly reduce craft brewers' tax bills.

Section 179 Deduction

As part of the bill, Congress restored the maximum Section 179 deduction of $500,000 and extended the deduction indefinitely. The amount of expensing allowed is subject to a dollar for dollar reduction once the total qualified business property placed in service during the year exceeds $2 million. If a brewery placed in service qualified business equipment costing $200,000 last year (e.g., a canning line or a keg line), it can write off the entire amount on the 2015 return, assuming the deduction does not exceed the brewery's total net income.

Section 168 Bonus Depreciation Extension

In addition to Section 179, the PATH Act extended bonus depreciation through 2019. The bonus depreciation percentage is 50% for property placed in service during 2015, 2016, and 2017. However, the allowable percentage phases down to 40% in 2018 and 30% in 2019. Eligible property for bonus depreciation includes newly constructed or original use property with a recovery period of 20 years or less, qualified improvement property, and certain computer software.

R&D Credit Expansion and Permanency

The PATH Act also contains a provision that makes the research and development tax credit permanent. Beginning in 2016, the PATH Act enacts two major changes in favor of small businesses. The following changes could help small breweries obtain additional credit amounts for research and development:

1. Small breweries (less than $50 million in revenue) can now offset AMT liability with research credits. The credit is limited to the excess of "net income tax" over the greater of either (a) the taxpayer's tentative minimum tax calculation for the year or, (b) 25% of the taxpayer's "net regular tax" exceeding $25,000.
2. New small (start-up) breweries can apply a portion of the R&D credit against their payroll tax. To qualify, breweries must have less than $5 million in revenue, and the election amount is limited to $250,000 per year.

Section 5061 Excise Tax Reduction

Finally, the PATH Act provides an additional break to small alcohol producers by reducing the frequency of excise tax payments. If an alcohol producer does not expect to owe more than $1,000 in excise taxes for the year, then the business can now make one annual payment. By the same token, if an alcohol producer expects more than $1,000 but less than $50,000 in excise taxes, then the business can now make quarterly payments.

Capital Expenditures De Minimis Increase

One more important new tax minimization opportunity not included in the PATH Act was the recent increase in the de minimis safe harbor limit from $500 to $2,500 for capital expenditures. In other words, as of January 1, 2014, a brewery is allowed to expense a capital expenditure of $2,500 or less without the IRS raising an issue upon examination. The brewery must have a written policy in place and, the capitalization policy must be the same for book and tax.

Serving several of the largest craft breweries in Colorado and across the country for more than 15 years, our commitment to this industry includes membership in the Brewers Association, the Colorado Brewers Guild, and the California Craft Brewers Association. To learn more about how we can help your craft brewery leverage all potential credits, incentives, and deductions, please contact John DeVore at 303-448-7000 or jdevore@eksh.com or Mike Madden at 303-740-9400 or mmadden@eksh.com.