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December 2010

Certain Gulf Opportunity Zone Tax Incentives Extended through 2011

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The recently enacted Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "Act"), extends a number of tax incentives that were enacted in the Gulf Opportunity Zone Act of 2005 (the "GO Zone Act"). Generally, the GO Zone Act sought to provide tax relief to spur the recovery of Louisiana, Mississippi and Alabama after Hurricane Katrina. The Act extends the following GO Zone Act provisions through 2011:

Increased Rehabilitation Tax Credits

Generally, the Internal Revenue Code provides taxpayers with a 20 percent tax credit for qualified rehabilitation expenditures incurred with respect to certified historic structures, or a 10 percent credit for qualified rehabilitation expenditures made with respect to qualified rehabilitated buildings (*i.e.*, buildings placed-in-service prior to 1936).

The GO Zone Act temporarily increased such percentages to 26 and 13 percent, respectively, for qualified rehabilitation expenditures paid or incurred with respect to certified historic structures or qualified rehabilitated buildings located in the Gulf Opportunity Zone (the "GO Zone") from August 28, 2005 until December 31, 2009. The Act extends this increased credit amount for an additional two years, to December 31, 2011.

Increased State Low-Income Housing Tax-Credit Ceiling

The GO Zone Act increased the otherwise applicable state low-income housing tax-credit ceiling for each of the states located in the GO Zone for calendar years 2006, 2007 and 2008. The additional credit cap for each of the GO Zone States equaled $18.00 times the number of such State's residents within the GO Zone. Under the GO Zone Act, this additional credit cap limit expired if the applicable low-income buildings were not placed-in-service prior to January 1, 2011. The Act extends this placed-in-service deadline for one year, to December 31, 2011.

GO Zone Bonds

The GO Zone Act authorized states in the GO Zone (or political subdivisions thereof) to issue qualified private activity bonds ("GO Zone Bonds") to finance the construction and rehabilitation of residential and nonresidential property located in the Go Zone. The Act extends this temporary authority to issue GO Zone Bonds for one year, to December 31, 2011.

Bonus Depreciation

Prior to the passage of the Act, the Internal Revenue Code afforded taxpayers an additional first-year depreciation deduction equal to 50 percent of the adjusted basis of specified GO Zone extension property placed-in-service on or before December 31, 2010. Further, in the case of nonresidential or residential rental real property, only the adjusted basis of such property attributable to manufacture, construction, or production prior to January 1, 2010 was eligible for the additional first-year depreciation deduction.

The Act extends this place-in-service requirement by one year, to December 31, 2011. Further, in the case of nonresidential or residential rental real property, the Act provides that the adjusted basis of such property attributable to manufacture, construction or production prior to January 1, 2012 is eligible for the additional first-year depreciation deduction. Specified GO Zone extension property is defined as property substantially all the use of which is in one or more specified portions of the GO Zone and which is: (1) nonresidential real property or residential rental property that is placed-in-service by the taxpayer on or before December 31, 2011; or (2) in the case of a taxpayer who places into service property described in (1) above, certain computer software, water utility or qualified leasehold property if substantially all of the use of such property is in such building and such property is placed-in-service within 90 days of the date the building is placed-in-service.

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If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

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