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Expiring tax provisions affect producers

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Agricultural producers make decisions each day using assumptions that are based on uncertainties – things like weather, prices and government regulations. The summer of 2012 was filled with such dilemmas. Our nation is suffering from the worst drought since the 1950s with grain and oilseed markets spiraling upward and livestock markets adjusting downward. Our government has not produced a farm bill and the 2007 Farm Bill expired on Sept. 30, 2012. In addition to this, important tax legislation is scheduled to expire on Dec. 31, 2012. This article will discuss a few of the expiring tax provisions that are most important to producers.

The amount specified in IRS Code Section 179 (referred to as the election to expense) is scheduled to be reduced substantially. This election allows an agricultural producer to choose to deduct an amount of the purchase price of a business asset rather than recover the purchase price over a period of years through annual depreciation. It is a very good tax management feature. In 2010 and 2011, the maximum amount of the election was set at $500,000 with

a phase out beginning when total purchases exceeded $2 million. In 2012, the maximum election amount is $139,000 with a phase out beginning when total purchases exceed $560,000. In 2013, the maximum election is scheduled to be reduced to $25,000 with a phase out beginning when total purchases exceed $200,000. The amount of the deduction elected is limited to the net business income. However, the IRS allows W-2 wages to count as business income.

IRS Code Section 168 is another provision that deals with depreciation, specifically with additional 50 percent/100 percent (bonus) first-year depreciation. In 2008 through 2010, a taxpayer was required to deduct an additional 50 percent of the cost of certain qualified assets, after the Section 179 deduction if elected, for assets placed in service during the year unless they specifically elected out of it. Congress changed the law in 2010 and added 100 percent bonus depreciation for assets purchased after Sept. 8, 2010, and placed in service before Jan. 1, 2012. The same law also provided for assets placed in service in 2012 to only use 50 percent bonus depreciation. However, no bonus depreciation is available for 2013.

The gain on certain capital assets that are sold after a minimum holding period is taxed at a lower rate compared to typical income tax rates. Most qualified capital assets have a minimum holding period of 12 months. Cattle have a minimum holding period of 24 months. Individuals filing jointly in 2012 who are in the 10 percent and 15 percent brackets (taxable incomes less than $70,700) will not owe any tax on the gain of qualified capital assets sold during the year. If taxable income is above $70,700, the income tax rate is 25 percent or higher depending on the level, up to a maximum of 35 percent. For these taxpayers, the capital gain tax rate is 15 percent. However, for 2013, the capital gain tax rate is scheduled to go from 0 to 10 percent for taxpayers in the 10 and 15 percent income tax brackets and from 15 to 20 percent for taxpayers in income tax brackets of 25 percent and above.

One other tax item related to estate taxes is planned to expire at the end of 2012. This is the $5.12 million exemption, the maximum tax rate of 35 percent on estates and the portability of any unused exemption to the surviving spouse. The exemption amount is scheduled to be reduced to $1 million, the maximum tax rate increased to 55 percent and the portability of the unused exemption will not be available.

Congress has the ability to extend a portion or all of these tax regulations plus many others. However, all we know for certain is the law as it currently stands and its implications for taxes for the remainder of 2012. What Congress will do related to tax regulations in future years is uncertain. ■