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THE DOMESTIC PRODUCTION ACTIVITIES DEDUCTION: FINALLY, SOME GUIDANCE ON THE LIMITS

Introduction

Manufacturing is and has been the backbone of the American economy for decades. Ford Motor, General Motors, and Chrysler are prime examples of manufacturers that built this economy and arguably this nation into the economic powerhouse it is today. Their survival largely depends on the cost of resources and labor, demand, taxes, and many other factors. Cost of resources, labor, demand, and most of the other factors are dictated by the "invisible hand" of economics and prevailing market conditions. Taxes of course are not; and as such, the federal government has decided to give them a break in light of recent foreign competition, decreased demand, and generally rising costs. Closely-held and even family businesses can also benefit from this new tax law.

Intent

The Manufacturer's Deduction is no longer confined to United States Exporters! Instead it is based on manufacturing items in the United States. With the American Jobs Creation Act of 2004, Congress transformed a little known, little used credit (commonly referred to as FSC and ETI) into a credit that is applicable to anybody manufacturing nearly anything. The old credit was declared illegal by the World Trade Organization. As

such, Congress repealed the credit slowly as not to disrupt manufacturers. The replacement is commonly known as the Domestic Production Activities Deduction (DPAD) or the vernacular - The Manufacturing Deduction. Its scope is substantially wider than the old deduction. Not only does this deduction apply to big manufacturers such as Ford and GM, it applies to many companies not traditionally considered manufacturers.



Manufacturer Defined

Manufacturers are now defined broadly. In fact the definition has been interpreted to be so broad; places which brew coffee could possibly be included as a manufacturer for this deduction. The legislative history also says farmers, miners, lumberjacks, and

anyone else who grows, manufactures, extracts products in the United States qualifies for the deduction. It is safe to say that if you are producing or assembling anything of value, you may qualify for this deduction. More examples of manufacturers (based off of interpretations from the IRS) includes electricity producers, miners, oil pumps, lumber mills, newspapers; even engineering, construction companies and architectural services and the like are eligible for the deduction. To go further, with recent Tax Court and IRS interpretive guidance, a pharmacy that produced photographs was allowed to utilize the DPAD as well.