Quick Tax Facts—2004 Jobs Act Changes

Key Tax Breaks Added or Eliminated

The chart below provides a list of important tax breaks and incentives that have been added by the American Jobs Creation Act of 2004 and those benefits that have been eliminated or restricted. See the explanations in CCH's *American Jobs Creation Act of 2004: Law, Explanation and Analysis* for complete discussions of the changes, including effective dates and transitional rules.

TAX BREAKS AND INCENTIVES ADDED	TAX BREAKS AND INCENTIVES ELIMINATED
✔ **Manufacturing deduction**—Businesses granted new deduction for domestic manufacturing and production activities. For 2005-2006, the deduction equals 3% of the lesser of qualified production activities income or taxable income. Percentage rises to 6% in 2007-2009 and to 9% in 2010 and after.	✕ **ETI repeal—**U.S. exporters gradually lose the benefit of the exclusion from gross income for extraterritorial income (ETI), starting in 2005. Transitional relief delays complete repeal of the exclusion until 2007.
✔ **Sales tax deduction—**Individuals given option to deduct state and local *sales* taxes instead of state and local *income* taxes for 2004 and 2005.	✕ **SUV loophole—**SUV loophole tightened, so that business owners can no longer deduct the full cost of sports utility vehicles under the Code Sec. 179 expensing rules. Deductible amount capped at $25,000 for property placed in service after the date of enactment.
✔ **Sec. 179 expensing—**Enhanced Code Sec. 179 expensing rules extended through 2007. Businesses can deduct up to $100,000 of qualifying property ($102,000 for 2004). Up to $400,000 of property can be placed in service ($410,000 for 2004) before the $100,000 deduction amount must be reduced. Indexing of amounts for inflation also extended through 2007.	✕ **Donations—**Deduction limited for car, boat or plane with claimed value over $500 that is given to charity after 2004. Instead of "blue book" estimate, deduction capped at the charity's proceeds from sale of the vehicle. Charity that keeps vehicle for its use must provide acknowledgment. Deduction also limited for donations of patents and similar property.
✔ **S corporation reform—**Maximum number of S corporation shareholders increased from 75 to 100, and family members counted as one shareholder. Other S corporation rules simplified.	✕ **Expatriation rules**—Individual and corporate expatriation rules tightened to prevent taxpayers from avoiding U.S. tax by giving up U.S. citizenship or residency or by moving operations offshore.
✔ **International tax—**Numerous changes permit companies to repatriate foreign earnings and also impact the foreign tax credit, FTC carryovers, sourcing rules and determination of subpart F income.	✕ **Leasing**—Tax benefits of certain leasing arrangements with foreign entities, governments and tax-exempt organizations restricted.
✔ **International shipping—**Shippers allowed to elect to compute tax on international shipping activities based on a per ton rate, instead of the corporate income tax rate.	✕ **Tax avoidance**—Penalties and disclosure requirements heightened for promoters and investors involved in tax shelters, listed transactions and reportable transactions.
✔ **VEETC (volumetric ethanol excise tax credit)—**New income and excise tax credits added for biodiesel fuel that is sold or used after September 30, 2004.	✕ **Fuel tax evasion**—Rules added to combat fuel tax evasion, including new and enhanced dyed fuel penalties and tracking and recordkeeping requirements.

THE FSC - ETI EXPORT TAX BENEFIT CONTROVERSY

Here is a look at the long-running dispute between the United States and the European Union over U.S. export tax benefits. Key developments in the debate are shown below.

1971 — 2004

1971 The Domestic International Sales Corporation (DISC) provisions were enacted as part of the Revenue Act of 1971 (P.L. 92-178). The DISC was an export incentive that allowed U.S. companies to defer tax on income from products sold abroad. Congress enacted DISC rules to combat an increase in trade competition from abroad.

1972 The DISC was challenged by the European Community as an impermissible export subsidy in violation of the General Agreement on Tariffs and Trade (GATT). The United States countered that the incentive balanced the effect of the "territorial" income system used by other trading partners.

1976 The GATT Panel sustained challenges made against the DISC, as well as U.S. challenges to export incentives provided by France, Belgium and the Netherlands.

1981 The United States agreed to adopt the general findings of the GATT Panel, subject to a 1981 GATT Counsel Decision (1981 Understanding), which qualified the findings. The 1981 Understanding held that the countries were not required to tax income from economic processes occurring outside their territory, arm's-length pricing applied to territorial system exports and the prevention of double taxation of fsi was permitted.

1984 The Foreign Sales Corporation (FSC) was added as part of the Deficit Reduction Act of 1984 (P.L. 98-369), replacing the DISC. The provisions were designed to comply with the 1981 Understanding. The FSC exempted a portion of export income from tax. Also enacted was the Interest-Charge Domestic International Sales Corporation (IC-DISC).

1997 **November** The European Union (EU), began to challenge the FSC provisions in the World Trade Organization (WTO) as a prohibited export subsidy. The IC-DISC was not challenged.

1998 **July** The EU requested that the WTO Dispute Settlement Panel determine whether the FSC provisions were consistent with the WTO rules.

1999 **October 8** The WTO Panel ruled that the FSC provisions did not comply with the United States' WTO obligation. The United States appealed the ruling, but was unsuccessful.

2000 **November 15** The FSC and Extraterritorial Income Exclusion Act (P.L. 106-519) was enacted to repeal the FSC provisions and prevent retaliatory measures. The EU challenged ETI in the WTO as a tax subsidy contingent on exporting.

2001 **August 20** The WTO Panel issued a report that found ETI in violation of WTO rules. The WTO Appellate body denied a U.S. appeal.

2001 **August 30** A WTO arbitration panel authorized the EU to impose $4 billion of tariffs on U.S. products.

2003 **November** The EU set a deadline of March 2004 for WTO compliance.

2004 **March 1** Tariffs started being imposed on U.S. products. The tariffs began at a rate of 5%, with 1% increases scheduled each month for a year, until the rate would reach a ceiling of 17% in March of 2005.

2004 **October** The American Jobs Creation Act of 2004 repeals ETI for transactions after 2004 and provides generous transitional relief. The changes are under study by the EU, according to a 10/11/04 press release.