Washington Alert

The Laurin Baker Group, LLC

Consultants in Government Relations and Public Affairs

900 2nd Street, NE Suite 201 Washington, DC 20002

www.thelaurinbakergroup.com

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HR 1, The American Recovery and Reinvestment Act (ARRA)

The American Recovery and Reinvestment Act (ARRA is a $787.2 billion economic recovery package that includes both spending and tax cuts. The website, www.recovery.gov, includes the full text of the bill, and will soon include detailed tracking of the government spending projects.

The ARRA was passed by Congress on Friday, February 13, and signed by the President on Monday, February 16. There will be further guidance issued by the White House Office of Management and Budget (OMB) in the coming weeks but *The Laurin Baker Group, LLC* has put together a brief summary of the spending and tax provisions that we think may have an effect on FIA members. We will provide additional information and analysis relevant to forgers as it becomes available.

It is important to note that the Act includes a �Buy America� provision that states: �None of the funds made available by this Act may be used for the construction, alteration, maintenance, or repair of a public building or public work unless *all of the iron, steel, and manufactured goods used in the project are produced in the U.S.�* Broad waivers can be granted by the head of the Federal agency involved if the provision is a) not in the public interest; b) the iron, steel, and relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities and of a satisfactory quality; or c) inclusion of iron, steel, and manufactured goods produced in the U.S. will increase the cost of the OVERALL project by more than 25 percent. Any waivers granted must have a detailed justification for why the provision is being waived published in the Federal Register.

The Act states that the Buy America provision will be implemented �in a manner consistent with U.S. obligations under international agreements.� That means it will apply to countries like China and Brazil, but NOT to countries with whom we have Free Trade Agreements (i.e., Canada and Mexico), and countries that have signed the WTO Government Procurement Agreement (signatories can be found at http://tcc.export.gov/Trade_Agreements/Exporters_Guides/List_All_Guides/exp_005325.asp)

Brief Overview of Spending Projects That May Require Forgings:

Highway Infrastructure: $27.5 billion for highway and bridge construction projects and $1.5 billion for competitive grants to state and local governments for transportation investment. It is estimated that states have over 5,100 projects totaling over $64 billion that could be awarded within 180 days.

Transit New Construction: $750 million for Capital Investment Grants for new commuter rail or other light rail systems to increase public use of mass transit and to speed projects already in construction. The Federal Transit Administration has $2.4 billion in pre-approved projects.

Transit Upgrades and Repair: $750 million to modernize existing transit systems, including renovations to stations, security systems, computers, equipment, structures, signals, and communications. Funds will be distributed through the existing formula. The repair backlog is nearly $50 billion.

Airport Improvement Grants: $1.1 billion for airport improvement projects that will improve safety and reduce congestion. An estimated $49.7 billion in eligible airport infrastructure projects are needed between 2009-2013.

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Tax Provisions Aimed at Increasing Alternative Energy Facilities:

The following provisions are likely not applicable to forgers directly but to current and potential forging customers in the alternative energy field.

Long-term Extension and Modification of Renewable Energy Production Tax Credit: The bill would extend the placed-in-service date for wind facilities for three years (through December 31, 2012). The bill would also extend the placed-in-service date for three years (through December 31, 2013) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities.

Advanced Energy Investment Credit: The proposal establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after date of enactment, and may allocate up to $2.3 billion in credits. Advanced energy property includes technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration.

Brief Overview of Business Tax Provisions That May Be Relevant to U.S. Forgers:

The following information was provided by the House Ways & Means Committee and the Senate Finance Committee. We strongly recommend that you follow up directly with your accountant on the tax provisions.

Extension of Bonus Depreciation: Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009.

Election to Accelerate Recognition of Historic AMT/R&D Credits: Last year, Congress temporarily allowed businesses to accelerate the recognition of a portion of their historic AMT or research and development (R&D) credits in lieu of bonus depreciation. The amount that taxpayers may accelerate is calculated based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation. This amount is capped at the lesser of six percent (6%) of historic AMT and R&D credits or $30 million. The bill would extend this temporary benefit through 2009.

Extension of Enhanced Small Business Expensing: In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small business taxpayers are allowed to write-off up to $125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed $500,000 (indexed for inflation). Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to

$250,000 and increased the phase-out threshold for 2008 to $800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009.

5-Year Carryback of Net Operating Losses for Small Businesses: Under current law, net operating losses (NOLs) may be carried back to the two taxable years before the year that the loss arises (the �NOL carryback period�) and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the bill would extend the maximum NOL carryback period from two years to five years for small businesses with gross receipts of $15 million or less.

Delayed Recognition of Certain Cancellation of Debt Income: Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income (CODI) is the excess of the old debt�s adjusted issue price over the repurchase price. Certain businesses will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011.

Incentives to Hire Unemployed Veterans and Disconnected Youth: Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during the five-year period prior to hiring and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

Small Business Capital Gains: Under current law, Section 1202 provides a fifty percent (50%) exclusion for the gain from the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited to the greater of 10 times the taxpayer�s basis in the stock, or $10 million gain from stock in that small business corporation. This provision is limited to individual investments and not the investments of a corporation. The non-excluded portion of section 1202 gain is taxed at the lesser of ordinary income rates or 28 percent, instead of the lower capital gains rates for individuals. The provision allows a seventy-five percent (75%) exclusion for individuals on the gain from the sale of certain small business stock held for more than five years. This change is for stock issued after the date of enactment (February 16, 2009) and before January 1, 2011.

Temporary Small Business Estimated Tax Payment Relief: The bill reduces the 2009 required estimated tax payments for certain small businesses.

Temporary Reduction of S Corporation Built-In Gains Holding Period from 10 Years to 7 Years: Under current law, if a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The bill would temporarily reduce this holding period from ten years to seven years for sales occurring in 2009 and 2010.

Repeal of Treasury Section 382 Notice: Last year, the Treasury Department issued Notice 2008-83, which liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer�s ownership of the company. The bill would repeal this Notice prospectively.

Expansion of Trade Adjustment Assistance (TAA) Programs: The bill significantly expands current Trade Adjustment Assistance Programs. Among other things, it extends TAA to trade-affected services sector workers and workers affected by offshoring or outsourcing to all countries, including China or India. It increases training funds available to states by 160 percent to $575 million per fiscal year, creates a new TAA program for trade-affected communities, allows for automatic TAA eligibility for workers suffering from import surges and unfair trade, makes training, healthcare and reemployment TAA benefits more accessible and flexible, and improves the TAA for Firms and TAA for Farmers programs. It reauthorizes all TAA programs (which expired December 31, 2007) through December 31, 2010.