# US stimulus package has something for everyone

***Washington is hardly a hub for capital markets, yet the flurry of activity there will profoundly impact how transport assets are financed.* Barry Parker *reports***

In mid-February, US President Barack Obama signed into law the much discussed economic stimulus bill, officially the American Recovery and Reinvestment Act of 2009 (ARRA), or Public Law (PL) 111-5, ushering in the largest single economic stimulus programme in US history.

Among transport modes, rail has made clear advances; other modes receive what amounts to a supplemental appropriation of federal money in additional to the annual budget cycle for mainly existing projects. The ARRA is split between USD463 billion of direct government investment and USD325 billion of benefits that take the form of tax-based incentives. Included in the tax portion are incentives for businesses to invest in new equipment.

## Driving transport spending

The tax side of the ARRA has the potential to have a positive impact on transport spending. In a recent investor conference call by US flag tanker owner OSG America LP, Myles Itkin, the company chief executive officer (CEO) and chief financial officer (CFO) of the parent company, was asked to comment on how the company might mitigate its financing burden.

OSG America, structured as a master limited partnership, is in dispute with the builder of six articulated tank barges (ATBs) — used in the refined oil products sector — and two tugboats. As OSG America reorganises its building programme, the company is also evaluating its financial alternatives.

In Itkin's answer, he detailed ways that Overseas Shipholding Group (OSG), the general partner of OSG America, might acquire vessels and charter the same ships to the partnership. However, the second half of Itkin's answer was most revealing: "We in turn could, of course, enter into certain tax leases if that proved to be attractive, particularly with certain of the benefits coming out under the stimulus plan, but all of that has to be evaluated in the overall context of tax shield."

The benefits referred to by Itkin centre on tax-related provisions of the stimulus package worth an estimated USD5 billion, according to budget analysts, that would extend "bonus depreciation" benefits into 2009 and, in certain cases, into 2010. This provision — which applies to aircraft used in US airspace as well as shipping assets used in US waters and railcars — allows a business to gain a large tax write-off by depreciating an additional 50 per cent of the cost of the asset during the year that an asset comes into service.

Edward H Kammerer, a partner in the Providence, Rhode Island, office of New England law firm Hinckley, Allen & Snyder, with a practice concentrating on business aviation, explains: "Simply stated, bonus depreciation is faster depreciation, not more depreciation." Kammerer tells *Jane's:* "US-based commercial and charter aircraft are clearly eligible for bonus depreciation. In fact, there are special rules for 'transportation property', which grant benefits to airlines beyond the benefits extended to users of other collateral types." He adds: "Bonus depreciation is available for aircraft manufactured both within and outside the US."

> ***'All of us hope the brief mention of NextGen in the budget presages a concerted effort to continue progress toward expediting implementation of a satellite-based system'***
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> **DJ Gribbin**
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Barges and vessels — along with tugboats and also railcars — are typically written down, for tax purposes, over 10 years. Tim Wallace, CEO of Trinity Industries, a barge and railcar builder, told investors just prior to passage of the ARRA: "We are optimistic that bonus depreciation for equipment purchases within the stimulus bill will benefit our customers and could prompt some orders for barges."

The explanation of the new rules, as provided by the Equipment Leasing and Finance Association (ELFA) offers that "if only USD2 million of a USD30 million ship was paid out to a vendor in 2009, and the remainder is paid out in 2010, only a USD1 million (50 per cent of USD2 million) bonus depreciation will be allowed on the ship's cost", even though it might not be placed in service until 2010.

In the case of OSG America, three ATBs are set for delivery in 2009, two in 2010 and one in 2011. Previously announced plans call for the vessels to be built by OSG and then 'dropped down' to the partnership, but careful scrutiny of the tax implications will probably dictate the path forward.

Matthew K Rose, CEO of Burlington Northern Sante Fe (BNSF), one of the large US Class 1 railroads, comments on a similar 2008 bonus depreciation measure: "BNSF took full advantage of the last bonus depreciation provision Congress passed, making purchases that it otherwise would not have made for the duration of the policy." Rose also pushed for an investment tax credit for railroads investing in their own right-of-way, the Expansion Investment Tax Incentive, which did not feature in the ARRA.

Throughout the month leading to passage of PL 111-5, which coincided with Obama's first weeks in office, there was considerable political debate about the efficacy of tax incentives – of which bonus depreciation is one of many – in comparison to actual spending. Law firm Holland & Knight, which recently hosted a seminar appropriately titled 'Follow the Money', said that the US government's preference, as it spends money, will be on "infrastructure projects that can be started and completed quickly and maximise job creation".

The major spending components of the bill aimed specifically at transportation consist of USD27.5 billion for