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TAX AND BUSINESS ADVISOR

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TAX AND BUSINESS Alert™

April 2009

Tax Relief Provisions of the Stimulus Act

After a great deal of political maneuvering, H.R. 1, the American Recovery and Reinvestment Act of 2009 (Stimulus Act), was approved by Congress and signed into law by the President. The Stimulus Act provides tax relief for individuals and businesses alike.

Individuals: A provision of the Stimulus Act makes many individual taxpayers eligible for the Making Work Pay Credit (Work Credit). Eligible taxpayers will receive a 6.2% reduction in their federal income tax withholding or estimated payment requirement in 2009 *and* 2010. The maximum Work Credit benefit is $400 for individuals and $800 for families. This benefit will *begin* to phase-out when an individual's adjusted gross income (AGI) reaches $75,000 ($150,000 for married couples filing jointly).

The Stimulus Act also provides a one-time payment of $250 to adults eligible for social security, railroad retirement, or veterans' benefits and individuals of any age receiving SSI benefits. In addition, the Stimulus Act provides a one-time $250 ($500 for a joint return where both spouses are eligible) refundable credit to certain federal and state pensioners who are not eligible for Social Security benefits.

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The Stimulus Act modifies and renames the Hope Scholarship Credit. The American Opportunity Tax Credit (Opportunity Credit) provides assistance to those seeking a college education. Eligible taxpayers can receive an Opportunity Credit of up to $2,500 per eligible student in 2009 *and* 2010 to cover the cost of qualified tuition and related expenses paid during the year. A related provision allows students to use 529 Plan education distributions for the purchase of computers and computer technology in 2009 *and* 2010, similar to Education Savings Accounts.

The First-time Home Buyer Credit was increased from $7,500 to $8,000 by the Stimulus Act and the obligation to repay the credit was generally eliminated for homes purchased after December 31, 2008. The Stimulus Act also extends availability of this credit for an additional five months through November 30, 2009.

(Continued on Page 4.)

Tax Calendar

April 15—Besides being the last day to file (or extend) your 2008 personal return and pay any tax that is due, 2009 first quarter estimated tax payments for individuals, trusts, and calendar-year corporations are due today. So are 2008 returns for trusts and calendar-year estates, partnerships, and LLCs, plus any final contribution you plan to make to an IRA or Education Savings Account for 2008. SEP and Keogh contributions are also due today if your return is not being extended.

—If you need to file a 2008 gift tax return, it also must be filed or extended by this date.

—If you paid cash wages of $1,600 or more in 2008 to a household employee, you must file Schedule H by this date. You may also have to report any federal unemployment tax paid and any income tax you withheld for your household employees.

June 15—Second quarter estimated tax payments for individuals, trusts, and calendar-year corporations are due today.

Help for Business Owners

Established as "the Official Link to the U.S. Government," Business.GOV at *www.business.gov* is a unique website for business owners. Operated by the Small Business Administration, this website offers business owners information on how to find loans and grants, start a home-based business, register a business name, search or register a corporation, obtain a business license, get information on employment laws, and bid on government contracts.

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Within the loans and grants area, for example, business owners can search for loans, grants, and financing using a checklist starting with the business type. The user may then select the type of financing needed, e.g., working capital. He or she is then given a list of several loan programs to review and pursue to obtain a working capital loan.

This website provides an avenue for business owners to locate financing or other assistance to help survive the current economic situation.

Consider Selling Appreciated Stock

With the poor results most investors have seen in the stock market lately, it appears insulting to suggest selling current investments at a profit. But many investors hold stock positions that have actually appreciated substantially above their cost. Perhaps it is stock purchased some time ago as a long-term investment or stock that was inherited many years ago with a low basis. If you are in the enviable position of owning appreciated stock that you have held for more than a year, you might consider selling this stock now to take advantage of the current low capital gains rates before they expire or are repealed by Congress.

The current 0% and 15% capital gains rates are set to expire after 2010, but could be repealed or altered if Congress needs additional tax revenue. Taxpayers with highly appreciated stock positions should consider selling at least a portion of their investment to take advantage of the current low capital gains rates. Following the sale they can then immediately repurchase identical stock; establish a new, higher tax basis; and maintain their previous financial position. The wash sale rules, which prohibit investors from selling stock at a loss and purchasing the identical stock 30 days before or after the sale, only apply to losses. They have no impact on capital gains from stock sales. This strategy will not be appropriate for everyone, but could be beneficial particularly for investors planning to reduce their current stock positions over the next few years.

Please call us to discuss this tax saving strategy or any other tax planning or compliance issue.

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Tax-wise Strategies for U.S. Savings Bonds

Many of us own U.S. savings bonds. As you probably know, you won't get rich quick investing in savings bonds, but you won't lose sleep worrying about their credit quality either. So, let's explore some background and some ways savings bonds might be a choice for some of your investment dollars.

Paper Series EE savings bonds are issued at a discount (1⁄2 of face value), and electronic form Series EE savings bonds are issued at face value. Interest on Series EE bonds accrues and is paid at the earlier of their redemption or maturity. For each year before maturity, the bond's redemption value increases. This annual increase in value represents the "interest accrual" for each year. Cash-basis taxpayers (most individuals) generally report the interest earned on Series EE bonds in the year the bonds are redeemed or mature—whichever comes first.

Series I U.S. savings bonds combine the features of deferring taxes on the interest until maturity with inflation-protected growth. Series I bonds are issued at face value and pay a fixed interest rate plus a semiannual inflation-adjusted rate. Interest is added to the bond monthly and paid when the bond is redeemed. Like Series EE bonds, cash-basis individuals report interest on Series I bonds in the year of maturity (or in the year redeemed, if earlier).

Tax savings can also be realized by using Series EE U.S. savings bonds to pay for a child's education expenses. All or a portion of interest on Series EE U.S. savings bonds issued after December 31, 1989, may be excluded from income if bond proceeds are used to pay qualified higher education expenses at eligible educational institutions.

If a savings bond is transferred during the owner's lifetime, the transferor generally must recognize any income that has been accrued, but not yet reported. Nevertheless, gifting a bond may be beneficial if substantial income is yet to be earned on the bond and the donee is in a lower tax bracket than the donor. A Series EE (and presumably, a Series I) bond can be transferred to a revocable (living) trust without triggering the deferred income.

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Savings bonds are not subject to the income taxes of states, U.S. possessions, or local taxing authorities. Taxpayers living in high-tax states may achieve tax savings by investing in U.S. bonds, since the interest is not taxable by states. However, such taxpayers must own the bonds directly, not through a qualified plan or IRA, to achieve state income tax savings. Most states tax IRA and qualified plan distributions (to some extent) regardless of the nature of the assets held in the plan or IRA.

Savings bonds can be a sound investment for children subject to the kiddie tax. While income from savings bonds is being deferred, no kiddie tax liability is incurred. After graduation, the child can redeem the bonds and presumably pay taxes at a rate lower than the parents. Alternatively, the child can continue to defer the savings bond income and the tax liability thereon after graduation.

A savings bond's current redemption value, earned interest, and other information can be determined using the Savings Bond Calculator at *www.publicdebt.treas.gov*.

Please call us to discuss the potential tax advantages of owning savings bonds or other tax deferral or minimization strategies.

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(Continued from Page 1.)


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To encourage the sale of automobiles, the Stimulus Act provides a deduction for state and local sales taxes and the excise tax paid on the purchase of new cars, light trucks, motorcycles, and motor homes purchased this year.

The Stimulus Act contains provisions extending the tax credits for energy-saving improvements to existing homes; increasing the Earned Income Credit and the refundable portion of the Child Credit; increasing and extending unemployment benefits; eliminating the federal tax on the first $2,400 of unemployment benefits; and subsidizing COBRA payments for certain involuntarily terminated workers.

Finally, the Stimulus Act provides relief from the Alternative Minimum Tax (AMT) in 2009 for 26 million families by increasing the amounts exempt from the AMT.

Businesses: The Stimulus Act temporarily extends the higher Section 179 expense amounts available in 2008 for an additional year. Under this provision, business owners can elect to immediately expense up to $250,000 of qualified equipment purchased during the 2009 tax year, rather than depreciate it over time. This benefit will continue to phase-out on a dollar-for-dollar basis once qualified equipment purchases exceed $800,000.

The Stimulus Act also extends availability of the 50% bonus depreciation provision for capital expenditures incurred in 2009 (2010 for aircraft and long-production-period property). This provision allows business owners to take 50% bonus depreciation in the year that the property is placed in service. In addition, the Stimulus Act extends the placed-in-service deadline for the $8,000 increase in first-year depreciation provision on qualified vehicles placed in service by December 31, 2009.

The current difficult economic situation has likely caused many businesses to incur a net operating loss (NOL) in 2008. Before the Stimulus Act, NOLs could generally be carried back only two years and, if there was a tax liability in those two years, taxes paid could be refunded to the taxpayer. For 2008 NOLs, the Stimulus Act extends the two-year carry-back to three, four, or five years increasing the likelihood, availability, and amount of the refund to enhance the business's cash flow.

Other business provisions of the Stimulus Act include an increased exclusion amount for a gain from the sale of small business stock, easing of the built-in-gains rules, delayed recognition of certain cancellation of debt income, and incentives to hire unemployed veterans and disconnected youth.

Please call us if you have questions about how the Stimulus Act might impact you or your business.

Alert
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