

The American Recovery and Reinvestment Act of 2009 -How This May Affect You

The American Recovery and Reinvestment Act of 2009, a nearly \$800 billion stimulus package which includes \$300 billion in tax relief, was signed into law by President Obama on Tuesday, February 17. This Act was designed to offer immediate relief to both individuals and businesses through significant enhancements to existing deductions and credits as well as the addition of new credit and deduction provisions. As a result, there are many small, but varied, provisions and you will most likely be affected by some of them. Following are some key provisions.

Key Areas for Business

Bonus Depreciation Extended: The Act extends the current bonus depreciation provision to assets placed in service in 2009. This provision allows taxpayers to immediately deduct 50% of the cost of most assets with depreciable lives of 20 years or less. Taxpayers who are in AMT or who have current year losses (and thus may not be able to benefit from bonus depreciation) can elect to “trade” the benefits of bonus depreciation for a refund of a portion of their pre-2006 R&D and minimum tax credits.

Sec. 179 Expensing Extended: The Act extends through 2009 the increased Code Sec. 179 expensing that allows small businesses to immediately write-off up to \$250,000 of capital assets. This deduction phases out when capital asset acquisitions exceed \$800,000.

Expanded NOL Carryback Period: The Act permits eligible small businesses to elect to expand the carryback period for 2008 net operating losses (NOLs) from 2 years to 3, 4, or 5 years. Eligible small businesses are businesses with average annual gross receipts of \$15 million or less. Allowing the carryback to earlier years increases the likelihood that a taxpayer who has incurred losses over the past several years will be entitled to a refund of taxes paid in the past.

Deferral of Debt Forgiveness Income: The Act encourages business restructurings by allowing – even outside of bankruptcy proceedings – taxpayers to elect to delay the recognition of debt discharge income attributable to the reacquisition of debt in 2009 or 2010. Although all of the

debt discharge income will eventually be recognized, taxpayers may elect to defer the recognition of the income from the date of the reacquisition through 2013 and then to recognize the deferred income ratably over five tax years beginning in 2014.

COBRA Premium Subsidy: For employees who are involuntarily separated from employment between September 1, 2008 and January 1, 2010 the Act provides for COBRA premium subsidies of up to 65% of the cost. The subsidy is to be paid by the former employer, who is then entitled to a credit against its income tax withholding and payroll taxes for the amount of the subsidy. In addition, those who failed to initially elect COBRA coverage are entitled to a new election window. Separated employees must attest that their income will not exceed \$125,000 for single filers (\$250,000 for joint returns). Additional guidance will likely follow.

Revised Income Tax Withholding Tables: It is anticipated that the "Making Work Pay Credit" (discussed below) will be implemented through revised income tax withholding tables, which will require employers to update their payroll tax programs.

The Act includes other incentives for businesses and a variety of energy credits, most of which are obscure but will most likely become more attractive over time.

Key Areas for Individuals

Making Work Pay Credit: The Act creates a credit against income tax equal to the lesser of 6.2 percent of the individual's earned income or \$400 (\$800 for filing jointly). The credit will apply retroactively to the start of 2009 and extend through 2010. Most qualified taxpayers will receive this credit through a reduction in wage withholding although it can be claimed when filing tax returns. The credit phases out as income exceeds \$75,000 for single filers and \$150,000 for joint filers.

New Car Tax Deduction: The Act allows taxpayers who purchase new vehicles in 2009 an above the line deduction for state and local taxes or excise taxes paid on the purchase. It is limited to the first \$49,500 of the purchase price of any one vehicle. For a taxpayer who is subject to a 7% combined state and local sales tax rate and whose marginal tax rate is 25%, the maximum tax savings from the deduction would be \$866.25 ($\$49,500 \times .07 \times .25$). The deduction is allowable for the alternative minimum tax (AMT), but phases out when the purchaser's income exceeds \$125,000 for single filers and \$250,000 for joint filers. Any newly purchased vehicle including cars, SUVs, light trucks or motorcycles, first used by the taxpayer that weighs no more than 8,500 pounds generally qualifies. Motor homes also qualify.

First Time Homebuyer Tax Credit Expanded: The Act expands the maximum amount of the credit from \$7,500 to \$8,000, and, more importantly, eliminates the repayment requirement as long as the house remains the principal residence of the taxpayer for 36 months. The expanded credit is available only for purchases between January 1, 2009 and November 30, 2009. The credit phases out when income exceeds \$75,000 for single filers and \$150,000 for joint filers.

AMT Patch: The Act includes a one year “patch” for 2009 that increases the alternative minimum tax (AMT) exemption amounts for 2009 and permits certain otherwise allowable nonrefundable personal credits to offset AMT.

American Opportunity Tax Credit: Under prior law, the Hope Scholarship credit permitted taxpayers to claim up to a \$1,800 credit for qualified tuition and related expenses for the first two years of a student’s post-secondary education. The Act expands the availability of the credit to each of the first four years of the student’s post-secondary education and increases the maximum amount of the credit to \$2,500. The credit is available against the alternative minimum tax (AMT), but phases out as income exceeds \$80,000 for single filers and \$160,000 for joint filers. In addition, 40% of the credit is refundable (unless the taxpayer is a child subject to the “kiddie tax” rules).

KGLC will continue to monitor the provisions of the Act as more details become available. If you have any questions, please do not hesitate to contact us at 407.869.8900 or at info@kglc.com.

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