

The Tax Provisions of the 2009 Economic Stimulus Package: How Will They Impact You or Your Business?

On February 17, 2009, President Obama signed into law “**The American Recovery and Reinvestment Tax Act of 2009**” (ARRA). The third major stimulus package coming out of Washington within the last year, the \$787 billion plan aims to create jobs and assist families affected by the economic crisis.

The plan includes various tax breaks and spending initiatives geared to have an immediate impact on the economy. Many of the tax cuts apply to individuals and businesses in 2009 and 2010. Summarized below are the major tax provisions from the 2009 Stimulus Plan. The listed items should provide you an idea as to how this tax bill will affect you. For more information, please contact your Schneider Downs representative.

Tax Relief for Individuals and Families

Extension of AMT Relief for 2009. For 2009, the Alternative Minimum Tax (AMT) exemption is increased by \$1,000 to \$70,950 for married couples and by \$500 to \$46,700 for single individuals.

Making Work Pay Tax Credit. Tax cuts are available for many working families. In 2009 and 2010, working individuals and families will receive a tax credit of \$400 for individuals and \$800 for couples (subject to a phase-out for couples with adjusted gross incomes (AGI) over \$150,000).

Refundable First-Time Home Buyer Credit. First-time home buyers who purchase a home after January 1, 2009 and before December 1, 2009, qualify for a refundable tax credit (10% of purchase price) up to a maximum of \$8,000. The repayment obligation was eliminated for homes purchased on or after January 1, 2009, but the home must be held for three years (subject to phase-out for couples filing jointly with AGI over \$150,000).

American Opportunity Education Tax Credit. In 2009 and 2010, taxpayers are eligible for a tax credit of up to \$2,500 of the cost of tuition and related expenses paid during the taxable year. Forty percent of this credit will now be refundable (subject to phase-out for couples with AGI over \$160,000 or individuals with AGI over \$80,000).

Computers as Qualified Education Expenses in 529 Education Plans. Section 529 Education Plans are tax-advantaged savings plans that cover all qualified education expenses, including: tuition, room and board, mandatory fees and books. Computers and computer technology now are considered to be qualified education expenses.

Sales Tax Deduction for New Vehicle Purchases. The new law offers a deduction for state and local sales and excise taxes paid on the purchase of new cars, light trucks, recreational vehicles and motorcycles costing up to \$49,500. The provision is effective for vehicles purchased on or after February 17, 2009, the day of the law’s enactment, and through December 31, 2009 (subject to phase-out for individuals and couples with modified AGI of \$125,000 and \$250,000, respectively). The deduction is an “above the line” deduction; you do not have to itemize deductions to claim the sales tax deduction.

Temporary Suspension of Taxation of Unemployment Benefits. Federal income tax is suspended on the first \$2,400 of unemployment benefits per recipient during the 2009 taxable year. Benefits over \$2,400 are subject to federal income tax.

Increased Exclusion Amount for Commuter Benefits.

For months beginning after February 15, 2009 and before January 1, 2011, the monthly limitation on the exclusion for transportation in a commuter highway vehicle or for transit passes is increased to \$230 to match the qualified parking exclusion.

Tax Incentives for Businesses

Extension of “Bonus” Depreciation. The new law extends through 2009 the 2008 provision that allowed businesses that had certain capital expenditures to immediately write-off 50 percent of the cost of depreciable property acquired for use in the United States. The extension is through 2010 for longer-lived assets and transportation property.

Higher Caps on Vehicle Depreciation. Also extended to 2009 is the bonus depreciation cap for first-year depreciation on autos, light trucks and vans. The first-year cap for autos is \$10,960, and is \$11,160 for light trucks and vans. This compares to first-year depreciation deductions of \$3,260 and \$3,160, without bonus depreciation.

Extension of Enhanced Small Business Expensing. Small business taxpayers that purchased capital expenditures in 2008 were allowed to write-off up to \$250,000 of capital expenditures subject to a phase-out once capital expenditures exceed \$800,000. This expensing provision is extended through 2009.

Election to Accelerate Recognition of Historic AMT/R&D Credits. For purchases after March 31, 2008, businesses are allowed to accelerate the recognition of a portion of their historic AMT or research and development credits in lieu of the “bonus” depreciation described above. The election amount is capped at the lesser of six percent of historic AMT and R&D credits, or \$30 million. This provision is extended through 2009.

Five-Year Carryback of Net Operating Losses (NOLs) for Small Businesses. The maximum NOL carryback period is extended from two years to five years for small businesses with gross receipts of \$15 million or less. The extended period is available for an NOL from a taxable year either ending or beginning in 2008, at the election of the taxpayer.

Delayed Recognition of Certain Cancellation of Debt Income (CODI). Certain businesses may recognize CODI over 10 years for specific types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. Generally, for the first five years, no amounts are included in income, and then CODI is included in income ratably over the final five years.

Incentives to Hire Unemployed Veterans and Disconnected Youth. 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 eleven targeted groups. The targeted groups are now expanded to cover unemployed veterans and disconnected youth hired in 2009 or 2010.

Small Business Capital Gains. This provision allows individuals to exclude 75 percent of the gain from the sale of certain small business stock held for more than five years, subject to some limitations. This change is for stock issued after February 17, 2009 (the date of enactment) and before January 1, 2011. A small business cannot have assets over \$50 million.

2009 Estimated Tax Payment Relief for Individuals with Small Businesses. The bill reduces the 2009 required estimated tax payments for individuals to 90 percent of their prior year's tax provided at least 50 percent of their gross income is attributable to income from certain small businesses, and their prior year's adjusted gross income is less than \$500,000. Prior law required 100 percent of the prior year tax, or 110 percent, if AGI exceeded \$150,000.

Temporary Reduction of S Corporation Built-In Gains Holding Period from Ten Years to Seven Years. A business that converted to S corporation status more than 7 years ago can avoid the tax on any built-in gains recognized 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 (built-in losses) that were incurred by the acquired company prior to the taxpayer's ownership of the company. The bill repeals Notice 2008-83 prospectively, thus reinstating NOL limitations for acquired banks.

Treatment of Certain Ownership Changes. The bill would clarify the application of Section 382 to certain companies restructuring pursuant to the Emergency Economic Stabilization Act of 2008.

Industrial Development Bonds (IDB). The definition of a manufacturing facility is expanded for tax-exempt bond financing to include any facility used in the manufacturing of tangible or intangible property described in Section 197(d)(1)(C)(iii). Previously, only the manufacturing of tangible personal property was permitted.

Advanced Energy Investment Credit. The legislation establishes a new advanced 30 percent investment tax credit for electricity production facilities or property otherwise qualifying for the energy credit. The investment credit will be advanced in the form of a grant. Credits are available for projects certified by the Secretary of Treasury after consulting the Secretary of Energy. Construction must begin in 2009 or 2010.

New Markets Tax Credit. Available New Markets Tax Credits allocations are increased to \$5 billion for 2008 and 2009. The credits arise from equity investments in a qualified community development entity (CDE).

COBRA Continuation Coverage for Unemployed Workers. The new law provides a 65 percent subsidy for COBRA continuation premiums for up to nine months for workers (and their families) who have been involuntarily terminated. There is also some transitional relief for individuals involuntarily terminated after September 1, 2008 who failed to elect COBRA coverage. The former employer will be required to pay the subsidy and will be reimbursed by crediting the amounts against payroll tax liabilities.

Reinvestment in Renewable Energy

Extension of the Renewable Electricity Production Credit. The provision generally extends for three years through 2013, the placed-in-service dates for purposes of the production credit (through 2012 for wind facilities and marine and hydrokinetic facilities).

Repeal of Subsidized Energy Financing Limitation on the Investment Tax Credit. The subsidized energy financing limitation is removed from the investment tax credit rules in order to allow businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing.

Election of Investment Credit in Lieu of Production Tax Credits. The provision allows a taxpayer to elect to have certain qualified facilities placed in service in 2009 through 2013, or through 2012 for wind property be treated as energy property eligible for a 30 percent investment credit in lieu of the production tax credit.

Removal of Dollar Limitations on Certain Residential Energy Credits. Individuals are allowed to claim a 30 percent tax credit for qualified solar water heating property, qualified small wind energy property and qualified geothermal heat pumps. Previously these credits had "caps" or limits associated with the various energy properties. The new law removes the caps.

Tax Credits for Energy-Efficient Improvements to Existing Homes. Tax credits for improvements to energy-efficient existing homes are extended through 2010. For 2009 and 2010, the amount of the tax credit is increased to 30 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year. This provision eliminates the property-by-property dollar caps on this tax credit and provides an aggregate \$1,500 credit cap on all property qualifying for the credit.

Clean Fuel Vehicle Refueling Property. The credit for clean fuel refueling property is increased from 30 percent to 50 percent (hydrogen refueling property stays at 30 percent). For businesses, the limits on the credit are increased to \$200,000 per location per year for qualified hydrogen refueling property and \$50,000 per location per year for other types of refueling property. For non-business refueling property not subject to depreciation rules, the credit limit is increased to \$2,000 per location year (\$1,000 for hydrogen refueling property).

Plug-In Electric Vehicle Credit. Each qualified plug-in electric drive vehicle placed in service during the taxable year qualifies for the credit of \$2,500. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit is increased by \$417, plus another \$417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 16 kilowatt hours. The credit is allowed against the AMT. The full amount of the credit will be reduced once the manufacturer records its 200,000th sale.

Summary

The tax cut provisions of the **ARRA** are estimated to cost \$275 billion of the total \$787 billion package. Spending provisions amounting to an additional \$514 billion are designed to inject cash into transportation, education, energy, health care and aid to states in hopes of reviving the economy and saving or creating 3.5 million jobs. Funds will also be spent to help victims of the recession through extended unemployment benefits and short-term health insurance assistance.



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