

Summary of the American Recovery and Reinvestment Act of 2009

On February 17th President Obama signed The American Recovery and Reinvestment Act of 2009 (ARRA) into law to help stimulate the economy out of recession. The legislative language and other information about the tax provisions of the act are available at the [Senate Finance Committee Website](#). Here are some highlights:

INDIVIDUAL PROVISIONS

The Making Work Pay Credit will provide up to a \$400 tax credit for singles or \$800 for married filing jointly. The credit is 6.2% of earned income and phases out at AGI of \$75,000 for singles or \$150,000 for married filing jointly. Taxpayers will not receive a check like they did for last year's stimulus payment — this year's credit will be received through a reduction in employee withholding and self-employed required estimated tax payments. The IRS will send withholding tables and information to taxpayers.

Economic Recovery Payments of \$250 will be sent to recipients of Social Security, SSI, Railroad Retirement and Veterans Disability Compensation Benefits, but for those who work it will be offset by any Make Work Pay Credit. The timing of the payment and how the IRS will coordinate it with the Making Work Pay Credit have not yet been announced.

Federal and State Pensioners will receive a one time refundable tax credit for those not eligible for Social Security Benefits. It is also reduced to the extent of any allowable Making Work Pay Credit.

The First-Time Home Buyer's Credit is increased to \$8,000 for purchases between January 1, 2009 and December 1, 2009. Despite what was proposed as the legislation made its way through Congress, the final legislation continues to limit the home buyer's credit to first-time home buyers (defined as someone who hasn't owned a home in the three years before the purchase). The most significant change made by the legislation is that the new credit does not have to be repaid. The home must be occupied as the buyer's principal residence within 24 months of the purchase. The credit phases out for taxpayers with adjusted gross incomes in excess of \$75,000 (\$150,000 in the case of a joint return). The credit is refundable and is recaptured if the home is sold within 36 months of the purchase date. A buyer who purchases a home after January 1, 2009 under the new rules can claim the credit on a 2008 return to speed receipt of the credit. A buyer who purchased a home before January 1, 2009, must go with the old "interest free loan" credit.

Sales Tax on Vehicle Purchases is deductible towards AGI. For 2009, this legislation allows all taxpayers a deduction for state, local, and excise taxes paid on the purchase of a new car or light truck. The deduction phases out at AGI levels of \$125,000 for singles or \$250,000 for married filing jointly.

Alternative Minimum Tax Relief is extended for 2009. The legislation increases the AMT exemptions for 2009 to \$46,700 for individuals and \$70,950 for joint filers.

Also, beginning in 2009 an individual may offset the entire Regular Tax Liability and Alternative Minimum Tax Liability by the nonrefundable personal credits.

The American Opportunity Education Tax Credit replaces and improves upon the HOPE scholarship credit. The American Opportunity Credit is allowed for up to four years of undergraduate education, and for 2009 and 2010 the maximum credit will be \$2,500 in each year and 40% of the credit is refundable. The credit phases out at AGI levels between \$80,000 and \$90,000 for singles and \$160,000 and \$180,000 for married filing jointly.

A Student Computer Purchase may be treated as a qualified education expense for Section 529 plans in 2009 and 2010. This includes software and peripheral equipment.

The Earned Income Tax Credit will increase be available for many low-income families in 2009 and 2010. For families with three or more children, the credit is 45% of the family's first \$12,570 of earned income, and the credit phase-out begins \$1,880 higher at \$21,420.

Child Tax Credit Refundability will increase in 2009 and 2010. In 2008 the child tax credit was refundable to the extent of 15% of the taxpayer's earned income in excess of \$8,500. The legislation reduces this to \$3,000 for 2009 and 2010.

COBRA Premium Assistance for the Unemployed — the federal government will subsidize 65 percent of COBRA premiums for employees who are involuntary terminated between September 1, 2008, and December 31, 2009. The new provisions will become effective March 1, 2009; however, an involuntary termination is not specifically defined.

The subsidy phases out between \$125,000 and \$145,000 for singles and between \$250,000 and \$290,000 for married filing jointly. Plan sponsors (including union trust funds and for-profit, tax-exempt, church and governmental employers) will be responsible for quickly administering the new provisions and will need to work closely with their COBRA administrators to ensure compliance. Mechanically, the former employer will pay 65% of the premiums and then take a payroll tax credit for this amount. This could cause some administrative difficulty as employers and former employees have to coordinate to receive and pay the bill that presumably will have been received by the former employee.

Health Coverage Tax Credit — effective May 1, 2009, the health coverage tax credit is increased from 65 to 80 percent of the individual's premiums for qualified health insurance of specific family members. The increased credit expires in 2011.

Executive Pay Restrictions — the Act further restricts executive pay from those financial institutions accepting Troubled Asset Relief Program (TARP) funds and provides more checks and balances regarding executive compensation.

BUSINESS PROVISIONS

Extenders — ARRA extends several business tax provisions enacted in the stimulus legislation of 2008, including:

Fifty Percent Bonus Depreciation is extended for expenditures made in 2009 and for certain longer-lived assets in 2010.

Section 168(k)(4) Election to Accelerate AMT or R&D Credits is extended. Last year's stimulus legislation allowed businesses to elect to accelerate the recognition of AMT credits or R&D credits in lieu of bonus depreciation. This election is now extended until January 1, 2009. The amount that may be accelerated is based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation. The amount is capped at the lesser of 6% of historic AMT and R&D credits or \$30 million.

Small Business Expensing Rules are extended. In the 2008 stimulus legislation, Congress increased the expensing provisions for small businesses to \$250,000 for assets purchased in 2008, and phased out the limitation for businesses that purchased more than \$800,000 in assets. This rule is extended for 2009.

Other Business Provisions — ARRA includes a variety of business tax benefits, including:

NOLs the Carryback Period Extended to Five Years (instead of two) for businesses with \$15 million or less in revenues beginning with 2008 NOLs. Carryback elections made previously can be changed but only once and must be made on a timely basis. The IRS is to provide appropriate guidance.

Temporary Estimated Tax Relief for Small Businesses is granted. For a tax year that begins in 2009, if an individual has adjusted gross income below \$500,000 and more than 50% of that income comes from a small business, the individual will not incur a penalty for underestimating taxes if the payments made are equal to at least 90% of the tax liability for the year. For this provision a small business is defined as a business with fewer than 500 employees.

Small Business Stock Capital Gains — an individual who invests in the stock of a small business and holds that investment for at least five years may exclude up to 75% of the gain realized on the disposition of that stock, provided certain requirements are met. This provision is effective for investments made after the date of enactment and before January 1, 2011. For this purpose, a small business is defined as a corporation with less than \$50 million in gross assets.

Holding Period to Avoid S Corporation Built-in Gains Tax is temporarily reduced from ten to seven years. Prior to enactment of the new legislation, a C corporation converting to S corporation status had to hold assets for at least ten

years to avoid tax on any built in gains in the assets. The legislation reduces the threshold to seven years, but only for sales occurring in 2009 and 2010.

The Enhanced Work Opportunity Credit Expanded — the categories of out-of-work individuals for which an employer can obtain the Work Opportunity Credit now includes unemployed veterans and disconnected youth. There are specific eligibility criteria for each. This credit is available for 2009 and 2010, and for any employee who started work after December 31, 2008.

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. This may provide an opportunity for some debt issuers to buy back their obligations at current discounted levels and delay recognition of the resulting cancellation of indebtedness income