



# Memo

To: MDE Clients & Friends  
From: Oleg Ikhelson, JD, CPA – VP of Tax Planning  
Date: March 2, 2009  
RE: American Recovery and Reinvestment Act of 2009

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## ***CONGRESS PASSES 2009 RECOVERY ACT (ECONOMIC STIMULUS PACKAGE)***

In an effort to jump start the economy, on 2/17/2009 President Barack Obama signed into law a massive economic stimulus package: The *American Recovery and Reinvestment Act of 2009*. As you probably have heard, the new law weighs in at nearly \$800 billion. Roughly one-third is comprised of tax incentives for individuals and businesses. Congress made many of the tax incentives retroactive to January 1, 2009.

As expected, most tax breaks were directed towards low- and middle-income taxpayers. However, there are some provisions of the Act that present valid tax-planning opportunities. They are discussed below.

### **First-Time Homebuyers**

The amount of the first-time homebuyer credit for homes purchased after December 31, 2008 and before December 1, 2009 is increased to \$8,000. The repayment requirement (\$500 annually for 15 years) is also eliminated for purchases made within this time period. However, recapture rules will apply if the home is disposed of or ceases to be treated as a principal residence within 36 months of the date of purchase. The credit is *not* available for purchases in the District of Columbia if the DC homebuyer credit is also claimed. While there is an income cap of \$95,000 (\$170,000 for joint returns) to qualify for this credit, it may still be applicable to younger generation family members or relatives. If you believe you or your loved ones might benefit from this credit, please call us to discuss the proper financial planning steps to insure eligibility.

### **Effect on Purchasers of Automobiles, Motorcycles, Light Trucks, and Motor Homes**

Purchasers of automobiles, motorcycles, and trucks with a gross vehicle weight of no more than 8,500 pounds, and motor homes, will be entitled to a deduction for state and local sales or excise taxes paid on purchases of such vehicles between February 17, 2009 and January 1, 2010. The sales tax deduction will be limited to taxes imposed on an amount of \$49,500 or less. An additional limitation will phase out the deduction for those individuals with modified adjusted gross incomes in excess of \$125,000 (\$250,000 for a married couple filing jointly). The deduction for qualified motor vehicle taxes will be allowed against the alternative minimum tax and could prove to be particularly valuable for purchasers in states with relatively high tax rates on auto purchases, such as California, Illinois, Massachusetts, Nevada, New Jersey, and Rhode Island. For instance, a purchase of a qualified *new* vehicle in New Jersey will result in up to \$3,465 of additional deduction for both regular and AMT purposes. Keep in mind that it only applies to *purchases*, but not leases.

Relative to the first-time homebuyer credit, this deduction is subject to a higher AGI limit. Coupled with the added flexibility in the retirement distribution rules for this calendar year, this higher AGI limit may enable more taxpayers to benefit from this deduction than the other Act provisions.

## Qualified Expenses for Qualified Tuition Programs

For purposes of the Qualified Tuition Program, in 2009 and 2010, the definition of qualified higher education expenses is expanded to include expenses for computer equipment and technology. If you have a §529 plan for your children or grandchildren who will be in college over the next two years, they will be able to withdraw additional funds, if available, to buy a laptop, pay for Internet access, etc.

The Act also increased the Hope Scholarship Credit to a maximum of \$2,500 per eligible student in 2009 and 2010, and text books and course materials are now included as qualifying expenses. Also, the credit can now be claimed for up to four years per eligible student. While most higher-income taxpayers do not satisfy the income requirements (the new credit is phased out completely at \$90,000 of AGI for single taxpayers or \$180,000 if married filing jointly) the Act makes it more desirable to implement the “dependent-shifting strategy” by designating 40% of the credit as refundable. In the past, the strategy rarely worked since the students did not have enough tax liability against which to claim the credit. Now, up to \$1,000 in excess of the tax due can be refunded back to the student, if the student claims the credit on his/her own return.

## Residential Energy Credits Modified

The 2009 Recovery Act provides tax savings of up to \$1,500 to homeowners by reinstating the Credit for Non-business Energy Property (CNEP) for 2009 and 2010, and enhancing the Residential Energy Efficient Property (REEP) credit. This is one of the few credits that have no income limitations and thus is available to all taxpayers. If you were planning energy-saving modifications to your home, taking steps to qualify for these credits should be considered.

As you may know, the CNEP can be taken when qualified energy efficient improvements or expenditures are made for your *principal residence*, including new insulation; replacement windows, skylights and doors; central air conditioners; certain water heaters, furnaces or boilers; and a new metal or asphalt roof specifically treated to reduce heat loss. The CNEP, which was not available for the 2008 tax year, has been re-instated for eligible improvements placed in service in 2009 or 2010. The 2009 Recovery Act also: 1) eliminates the lifetime limitation for the CNEP (previously \$500); 2) increases the credit from 10% to 30% of qualified expenses; and 3) increases the maximum CNEP amount for 2009 and 2010 installations to \$1,500.

If you were considering solar energy alternatives, the Act made them less costly. The REEP credit is allowed for qualified expenditures that produce energy for home use, such as for solar energy and fuel cell energy property. The REEP applies *not only to your principal residence, but also to a vacation home*. Although the maximum credit for qualified fuel cell property remains unchanged (\$500 for each half kilowatt of capacity), the Act removes the maximum credit amounts starting in 2009 for solar electricity (previously capped at \$2,000); small wind energy (previously capped at \$4,000); and geothermal heat pumps (previously capped at \$2,000).

If you want to install energy-saving improvements or alternative energy property to your home, we can help you categorize your expenses and plan the timing of your energy-saving projects to maximize your overall tax savings. The energy-savings requirements are very technical and somewhat complicated. If you want to learn more about qualifying energy-efficient property, please call us for details.

## Qualified Small Business Stock

The percentage exclusion for qualified small business stock sold by an individual is increased to 75% for stock acquired after February 17, 2009 and before January 1, 2011. Over the last six years, the attractiveness of investment in small business stocks was diminished by a rather low marginal tax rate of 15% on capital gains. The tax rate on gains from sales of small business stock that a taxpayer must hold for five years was only slightly lower, at 14%, thus

losing its tax-saving appeal. With adoption of this Act, however, QSB stocks bought over the next two years may qualify for an ordinary tax rate of 7% and a maximum AMT rate of 13%. Should the capital gain tax rate increase, the Qualified Small Business stock provisions may regain some popularity. Qualified small business stock is stock of a C Corporation that is owned by a non-corporate taxpayer and held by that taxpayer for more than five years. The stock must have been acquired in the original issue or in certain nontaxable transactions.

If you have any questions or seek clarification on any of the above provisions, do not hesitate to contact our office. Tax season notwithstanding, we are committed to providing you with proactive and creative financial and wealth management advice whenever you need it.