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On February 17, 2009, President Obama signed into law **THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**. The nearly \$800 billion stimulus act contains over \$300 billion of tax incentives to the U.S. economy.

The new law provides immediate relief to both individuals and businesses. Most of the tax incentives in the new law are retroactive to January 1, 2009.

The following are highlights of some of the new law's more significant tax changes affecting individuals and businesses:

BUSINESS INCENTIVES

Bonus Depreciation

The new law extends the 50% first year bonus depreciation for acquisitions made through December 31, 2009. This provision allows a business to immediately write-off 50% of the cost of certain depreciable property. The property must be new property with a depreciation period of 20 years or less. The bonus depreciation includes most tangible personal property, off-the-shelf software, qualified leasehold improvements, and passenger automobiles used at least 50% for business. Many states have decoupled from this federal tax provision and therefore do not allow the bonus depreciation.

Code Section 179 Expensing

The \$250,000 expensing limit and the \$800,000 capital asset acquisition threshold provided for in the 2008 Economic Stimulus Act has been extended through 2009. Purchases of fixed assets in excess of \$800,000 reduce the expensing limit dollar for dollar.

Net Operating Loss Carrybacks

Qualified small businesses with average gross receipts of \$15 million or less may elect to carryback the NOLs generated in 2008 based on a choice of three, four or five years. This carryback change only applies to losses generated in 2008. For losses incurred in 2009, the two year carryback rule will be in effect.

Qualified Small Business Stock

Current law provides a 50% exclusion from gain from the sale of qualifying small business stock held for more than five years. The Act increases this exclusion to 75% for stock issued between the date of enactment and January 1, 2011. A small business cannot have assets greater than \$50 million.

S Corporation Built in Gains

The new law temporarily shortens the holding period, from ten years to seven years, for assets subject to the built-in-gains tax which may be imposed when a C corporation elects to become an S corporation. This reduction applies to C corporations that convert to S corporations in tax years beginning in 2009 and 2010.

Estimated Taxes

The Act decreases 2009 estimated tax payment requirements for individuals whose income is earned primarily from small businesses in 2009. Rather than being required to base quarterly estimates on 100% of 2008 income, the new law allows computations based on 90%. This provision applies to individuals with adjusted gross income less than \$500,000 and whose gross income is at least 50% from small businesses.

COBRA Benefits

Individuals who involuntarily separate from employment between September 1, 2008 and January 1, 2010 can elect to pay 35 % of his/her COBRA premium and have it be treated as paying the full amount. The former employer will be required to pay the remaining 65% but will be reimbursed for those amounts by crediting payroll taxes. Income and other limits apply to this coverage.

INDIVIDUAL INCENTIVES

Making Work Pay Credit

This is a credit against income tax of 6.2% of the individual's earned income up to \$400 for single filers and \$800 for joint filers. The credit phases out when adjusted gross income exceeds \$75,000 for single filers and \$150,000 for joint filers. Qualified taxpayers take this credit through a reduction in wage withholding or a lump sum when filing their tax returns. The credit will apply retroactively to the beginning of 2009 and extend through 2010.

\$250 Economic Recovery Payment

The new law provides a onetime payment of \$250 for individuals on fixed incomes, including those individuals primarily on Social Security, railroad retirees, and disabled veterans. These payments will reduce the Making Work Pay Credit the individual would otherwise be entitled to.

Alternative Minimum Tax (AMT) Patch

The Act includes another one year AMT patch for 2009 increasing the exemption amount above 2008 levels to \$46,700 for individuals and \$70,950 for joint filers. The patch is designed insulate about 26 million taxpayers from the AMT.

First Time Home Buyer Credit

The new law extends this Credit, first enacted in 2008. The new provision applies to homes purchased prior to November 31, 2009 and grants an \$8,000 credit without a payback requirement, providing the residence is not sold within 36 months. This is a significant change to the law enacted in 2008 which required a repayment of the credit over a fifteen year period. This credit phases out when adjusted gross income exceeds \$75,000 for single filers and \$150,000 for joint filers.

Car Buyer Incentive

Purchasers of new vehicles from the date of enactment to December 31, 2009 will be entitled to a deduction for sales tax paid attributable to the first \$49,500 of purchase price of any one vehicle. The deduction is phased out for income levels exceeding \$125,000 (\$250,000 for joint filers.) Both domestic and foreign vehicles qualify. This provision does not apply to leased vehicles.

Education Credit

The new law extends and enhances the HOPE education credit by increasing the credit from \$1,800 to \$2,500 for 2009 and 2010, making the credit applicable to all four years of college and adding course materials and qualifying expenses in quantifying total educational costs. The credit is allowed against AMT and up to 40% may be refundable. The credit phases out for taxpayers with income in excess of \$80,000 for single filers and \$160,000 for joint filers.

Child Tax Credit

The Act increases the refundable portion of the \$1,000 per child tax credit for 2009 and 2010 by setting the income threshold at \$3,000.

Earned Income Tax Credit

There is a temporary increase in the Earned Income Tax Credit for 2009 and 2010.

Unemployment Income

For 2009, the first \$2,400 of unemployment compensation is excluded from the recipient's gross income.

Transportation Fringe Benefits

The Act increases the income exclusion to \$230 per month for transit passes and van pooling. The increase is effective March 2009 and extends through 2010 with an inflation adjustment.

Qualified Tuition Programs

For 2009 and 2010 the new law allows beneficiaries of qualified tuition programs to use tax-free distributions to pay for computers and computer technology, including internet access.

ENERGY INCENTIVES

The energy incentives included in the new law target both individuals and businesses. Many of these energy provisions do not apply to the average taxpayer but please contact our office if you would like more details on a specific topic. The energy incentives include:

Residential Energy Efficient Property Credit
Renewable Electricity Production Credit
Energy Investment Credit
Plug In Electric Vehicles

Residential Energy Property Credit

The new law increases the credit from 10% to 30% with a maximum cap of \$1,500, for 2009 and 2010 installations of insulation materials, exterior windows and skylights, exterior doors, central air conditioners, natural gas, propane or oil water heaters, certain pumps, heaters and roofs.

The tax incentives and changes enacted by this stimulus package are extensive and further guidance will be provided over the next several weeks. Please contact our office to discuss any of these items in more detail to determine if the provisions are applicable to your tax situation.