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THE AMERICAN RECOVERY AND REINVESTMENT TAX ACT OF 2009 AND YOU

On February 17, 2009, President Obama signed into law “The American Recovery and Reinvestment Tax Act of 2009” (the “Act”). The \$787 billion economic stimulus package contains almost \$300 billion in tax cuts and benefits. The following is a brief synopsis of the individual taxpayer benefits and tax cuts.

ONE-TIME PAYMENT

The Act provides a one-time \$250 payment to individuals on fixed incomes (Social Security beneficiaries, railroad retirees, disabled veterans, and state government retirees not eligible for Social Security). The payment will reduce any Making Work Pay credit to which the taxpayer would otherwise be entitled.

MAKING WORK PAY CREDIT

The “Making Work Pay” credit provides an income tax credit equal to the lesser of (i) 6.2% of earned income; or (ii) \$400 (\$800 for married couples filing jointly). The credit will apply retroactively to January 1, 2009 and extend through December 31, 2010. The credit serves to offset a taxpayer’s share of FICA payroll taxes for the first \$6,452 in earnings (\$12,904 for couples) and will apply in full to taxpayers with modified adjusted gross income (MAGI) under \$75,000 (\$150,000 for married couples filing jointly). The credit is phased out at the rate of 2% above the limit.

A taxpayer can utilize this credit through either (i) a reduction in wage withholding; or (ii) in a lump sum when filing their income tax return. Self-employment earnings will also qualify to the extent they are taken into account in computing taxable income. Non-resident aliens, a dependent (under IRC Sec. 151), and any estate or trust will be excluded from the credit.

AMT PATCH

The 2009 “Alternative Minimum Tax” (AMT) patch permits taxpayers to utilize most personal credits while reducing their AMT liability. The patch increases the exemption amounts to: \$70,950 for joint filers and surviving spouses; and \$46,700 for singles and heads of households.

FIRST-TIME HOMEBUYER TAX CREDIT

The Act raises the “first-time homebuyer tax credit” to 10% of the purchase price, up to a maximum for \$8,000, in 2009 and eliminates any required repayment after 36 months of home ownership. Eligibility for the credit requires (i) the purchase of a principal residence; (ii) a first-time homebuyer; (iii) transactions (when title closes) between January 1, 2009 and December 1, 2009. The credit phase-out starts at AGI in excess of \$75,000 (\$150,000 for married couples filing jointly).

NEW VEHICLE DEDUCTION

The “new vehicle deduction” (automobiles (domestic and foreign), SUVs, light trucks or motorcycles, which weigh less than 8,500 gross pounds) provides taxpayers an above-the-line deduction for state and local sales taxes or excise taxes paid on a vehicle purchased in 2009 (after February 17, 2009).

The new deduction is subject to the following limitations: (1) deductible sales or excise taxes cannot exceed the portion of the tax attributable to the first \$49,500 of the purchase price of any one vehicle; and (2) any deduction will be phased out for any tax year in which the taxpayer has adjusted gross income exceeding \$125,000 (\$250,000 for married couples filing jointly). The deduction is not applicable to sales taxes paid on a lease agreement.

EDUCATION CREDIT

The HOPE education credit is renamed the “American Opportunity Tax Credit” and increased (i) to \$2,500 per year in amount; (ii) in scope (extending to all four years of college); and (iii) to include course materials as a qualifying expense. The income phase-out level is also increased to \$80,000 (\$160,000 for joint filers).

While retroactive to January 1, 2009, the credit will not automatically apply to a college semester that began in January 2009. The credit will also offset alternative minimum tax liability.

CHILD TAX CREDIT

The Act increases the refundable portion of the “child tax credit” by lowering the income floor to \$3,000 (from \$8,500). The increase is effective for both 2009 and 2010.

EARNED INCOME TAX CREDIT

The Act increases the “Earned Income Tax Credit” (EITC) for 2009 and 2010 to 45 percent of the first \$12,570 of earned income for taxpayers with three or more qualifying children. The EITC phase-out has also been adjusted upward by \$1,880 for joint filers.

UNEMPLOYMENT COMPENSATION

The Act provides an exclusion of the first \$2,400 of unemployment compensation benefits from a recipient’s gross income in 2009. Amounts in excess of \$2,400 remain fully taxable.

TRANSIT BENEFITS PARITY

Commencing in March 2009, the Act increases the tax-free employer provided “qualified transportation fringe benefit” (transit passes, van pooling and qualified parking) income exclusion amount to \$230 per month. The increase is effective for 2009 and 2010, with an inflation adjustment.

QUALIFIED TUITION PROGRAMS

Amends section 529(e)(3) of the Internal Revenue Code to provide beneficiaries of a “qualified tuition program” tax-free distributions to pay for computers and related technology. The amendment applies to tax years 2009 and 2010.

MILITARY BENEFITS:

The Act incentives’ businesses with a tax credit of 40% of the first \$6,000 in wages when hiring an unemployed veteran. Eligible veterans must (i) be within 5 years of leaving active duty; and (ii) have drawn unemployment compensation for more than 4 weeks during the year before being hired.

The Act additionally extends “Military Homeowner Assistance Program” (HAP) benefits (normally payable only at BRAC locations) to military homeowners who (i) purchased his or her residence before July 1, 2006; and (ii) sell the residence before September 30, 2012. Eligibility requires (i) receipt of PCS orders; or (ii) incurrence of a service-connected condition, during a deployment, resulting in disability retirement. A surviving spouse will also be eligible for the HAP benefit. HAP authorizes the government to either (i) reimburse a military homeowner for a loss on the sale up to 95% of the original value, or (ii) purchase a residence for up to 90% of the original value.