



New Tax Legislation May Benefit You in 2009

[President Signs Emergency Economic Stabilization Act \(EESA\) of 2008](#)

On October 3, President Bush signed the EESA Act into law.

[Important Changes for Individuals](#)

The act provides **AMT relief** by increasing exemption amounts to \$46,200 for single individuals and \$69,950 for married individuals. As in previous years, the exemption amount begins to phase out once joint-return filers' taxable income exceeds \$150,000 or \$112,500 for single filers.

ESSA also extends the option to claim an itemized deduction for **state and local general sales taxes** instead of the itemized deduction for state and local income taxes for two years.

An above-the-line deduction for **qualified tuition and related expenses** for higher education paid during the tax year is also allowed.

Teachers and other education professionals may deduct up to \$250 of certain **out-of-pocket classroom expenses**, including books, supplies, equipment and software used in the classroom.

Taxpayers may make **tax-free distributions up to \$100,000 from IRA's for charitable purposes** through 2009. However, no charitable deduction is allowed for any portion of these withdrawals that would have been otherwise taxable.

A generous tax credit is available to individuals who add **solar energy equipment** or fuel-cell (new technology that converts fuel into electricity using electromechanical methods and meets other detailed requirements) equipment to their residences. Also, beginning in 2008, the new law makes the credit available for wind turbines and geothermal heat pumps. Owners of plug-in electric vehicles will be eligible for a tax credit of up to \$7,500 that will start to phase out after 250,000 of the vehicles are sold in the United States.

EESA also extends through 2012 the **Mortgage Forgiveness Debt Relief Act of 2007**. Under this program, homeowners whose mortgage amounts were reduced (up to \$2 million of indebtedness for married filers and \$1 million for married filing separately) do not owe tax on the amount forgiven, which is sometimes treated as income. Also, renters who live in foreclosed properties can remain in their homes under the terms of their leases without adverse tax consequences.

In the recently enacted Housing and Economic Recovery Act of 2008, **first-time homebuyers** and those who have not owned a home in the three years prior to a purchase can qualify for a credit of up to 10% of the purchase price of the home (up to \$7,500).

Available for a limited time only, the credit:

- Applies to home purchases after April 8, 2008, and before July 1, 2009.
- Reduces a taxpayer's tax bill or increases his or her refund, dollar for dollar.
- Is fully refundable, meaning that the credit will be paid out to eligible taxpayers, even if they owe no tax or the credit is more than the tax that they owe.

However, the credit operates much like an interest-free loan, because it must be repaid over a 15-year period. For example, an eligible taxpayer who buys a home today and properly claims the maximum available credit of \$7,500 on his or her 2008 federal income tax return must begin repaying the credit by including one-fifteenth of this amount, or \$500, as an additional tax on the taxpayer's 2010 return.

The credit is phased out based on your modified adjusted gross income (MAGI). For a married couple filing a joint return, the phase-out range is \$150,000 to \$170,000. For other taxpayers, the phase-out range is \$75,000 to \$95,000.

On December 23, President Bush signed the **Worker, Retiree, and Employee Recovery Act of 2008**. This act provides some relief for companies that contribute to single-employer and multi-employer defined benefit plans, as well as for certain individual taxpayers. For 2009, the act suspends the penalties imposed on those aged 70 ½ and older who do not take required minimum distributions (RMDs) from their retirement accounts. No relief is provided for 2008 RMDs.

Important Changes for Businesses

The **Research tax credit** is extended to amounts paid or incurred in 2008 and 2009.

Under the Economic Stimulus Act of 2008, Code **section 179** immediate expensing limits for depreciable assets doubled to \$250,000.

Under the new law, **qualifying restaurant improvements** will be eligible for 15-year cost recovery rather than a 39-year period through the end of 2009. Congress also authorized a 15-year recovery period for depreciation of certain improvements to retail space.

Enhanced deductions are allowed for **contributions of food to charitable organizations**, as well as contributions of books and computer equipment to qualifying schools.

The **New Markets tax credit** encourages taxpayers to invest in or make loans to small businesses in economically distressed areas. EESA extends the temporary higher investment limit through 2009.

Code section 179D deduction for **energy efficient commercial buildings** is extended through 2013.

Employees can exclude certain **employer-provided transportation benefits** from income, such as transit passes and vanpooling. The new law extends this treatment to employer-provided transportation fringe benefits paid to employees who commute by bicycle. The exclusion amount is \$20 per month.

Nonqualified deferred compensation plans maintained by foreign corporations will generally become taxable, unless the compensation is deferred 12 months or less after the end of the year that the compensation vests. The tax can also apply to partnerships with foreign partners. Deferred compensation will be taxable when the amount is determinable. The provision does not apply to an entity whose income is taxable in the U.S. or subject to a comprehensive foreign income tax.

Code section 199 **domestic production activities deduction** is capped at six percent for oil and gas production.

The law extends the 0.2 percent surtax on **FUTA (unemployment) taxes** through 2009. FUTA tax is 6.2% of wages and is imposed on the first \$7,000 of wages paid to each employee.

Extended Due Date Changes for Partnerships and Estates & Trusts

The IRS has announced that the new extended due date for Partnership and Estates and Trusts Returns will now be September 15th instead of October 15th. The change eases the burden on taxpayers who must report information from Schedules K-1 and similar documents on their individual tax returns. Previously, the extended due date for both businesses and individuals often fell on the same date, generally Oct. 15. This created a burden for individual taxpayers who rely on the information from Schedule K-1 and other similar statements to prepare and file their personal tax returns in a timely manner.

Sales and use tax exemptions for hybrid and alternative fuel vehicles

2005 legislation will go into effect January 1, 2009 when purchases or acquisitions of certain vehicles that use clean alternative fuels are exempt from Washington State sales and use taxes for a limited period. For sales of passenger cars, light duty trucks and medium duty passenger vehicles that are (1) powered exclusively by a clean alternative fuel such as natural gas, propane, hydrogen, or electric power or (2) use hybrid technology and have a mileage rating of at least 40 mpg. This exemption will expire two years later, on January 1, 2011.

Employment Security Update

Corporations may exempt corporate officers and not pay state unemployment taxes on them if they earn wages in Washington and meet certain criteria, depending on the type of corporation. Effective January 1, 2009, a new law changes unemployment insurance coverage of corporate officers. Under the old law, corporate officers are exempt from unemployment insurance unless the employer elects to cover them. Under the new law, corporate officers who provide services in Washington are covered for unemployment insurance unless the employer specifically exempts them by filing an exemption form.

Foreign Financial Account Reporting Requirements

Any U.S. citizen, resident or domestic legal entity (ex: partnership, corporation) who owns a foreign bank account, brokerage account, or mutual fund must file form TD F 90-22.1, Report of Foreign Bank and Financial Authority (FBAR), if: (1) you have financial interest in or authority (signature or otherwise) over one or more accounts in a foreign country, and (2) the total value of all foreign financial accounts is greater than \$10,000 at any time during the calendar year. This form is due June 30 (for the preceding year) and should be mailed to the U.S. Department of the Treasury, PO Box 32621, Detroit, MI 48232-0621. FBAR is an information return and should be mailed to the Department of Treasury and there are no extensions to file this form. Taxpayers who fail to file may be subject to both civil and criminal penalties. Department of Treasury has increased its FBAR compliance monitoring efforts.

We hope you have found this *NDH Tax Alert* informative. This *NDH Tax Alert* is intended to inform our clients of recent developments in tax law. It is not intended as a substitute for specific tax planning advice, which should be tailored to your particular situation.

If you would like further details regarding the above or would like to discuss year end tax planning, please contact us at your earliest convenience.

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