



New Tax Legislation May Benefit You in 2009

The President signed two acts into law for 2009

On February 17, President Obama signed the **American Recovery & Reinvestment Act (ARRA)** of 2009 into law. On November 6, President Obama signed the **Worker, Homeownership, and Business Assistance Act (WHBAA)** of 2009 into law.

Important Changes for Individuals

The **making work pay tax credit** is available for tax years 2009 and 2010. The maximum credit for a married couple filing a joint return is \$800 and \$400 for a single taxpayer. The credit is phased out for joint taxpayers with AGI from \$150,000 to \$190,000 (or \$75,000 to \$95,000 for single taxpayers). The majority of taxpayers have been receiving the credit through lower federal withholding rates on their paychecks.

On May 17, 2006, President Bush signed the Tax Increase Prevention and Reconciliation Act (PPA) of 2005 into law. For tax years beginning in 2010, PPA eliminates the \$100,000 modified AGI limit on **conversions of traditional IRAs to Roth IRAs**. Also, married taxpayers filing a separate return may convert amounts in a traditional IRA into a Roth IRA. Unless a taxpayer elects otherwise, they can defer reporting gross income in 2010 over two years starting in 2011; half of the income resulting from the conversion is includible in gross income in 2011 and the remaining half in 2012.

ARRA also provides **AMT relief** by increasing exemption amounts to \$46,700 for single individuals, \$70,950 for joint taxpayers, and \$35,475 for married filing separately. As in previous years, the exemption amount begins to phase out when single return filers taxable income exceeds \$112,500, \$150,000 for joint filers, and \$75,000 for married filing separate.

The act also increases the **exclusion for qualified small business stock gain**. An individual taxpayer can exclude 75% of the gain on the sale of qualified small business stock acquired after February 17, 2009 and before January 1, 2011.

The IRS has announced **standard mileage rates for 2010**. Beginning January 1, 2010 the rates will be decreased from 2009 to: 50 cents per mile for business miles driven, 16.5 cents per mile for medical or moving purposes. Mileage for services of charitable organizations remain the same at 14 cents per mile. The mileage rates for 2010 reflect generally lower transportation costs compared to a year ago.

For purchases on or after Feb 17, 2009 and before January 1, 2010, ARRA provides a deduction for **qualified motor vehicle taxes**. The deduction is limited to the sales and excise taxes and similar fees paid on up to \$49,500 of the purchase price of a new vehicle. The deduction is not allowed on the purchase of a used vehicle. The special deduction is available to taxpayers who itemize deductions or take the standard deduction on their return.

A tax credit is available for **qualified plug-in electric drive motor vehicles**. The maximum credit can range from

\$7,500 to \$15,000, depending on the gross weight of the vehicle. For vehicles acquired after 12/31/2009, the maximum amount of the credit will be \$7,500 and the 30D credit will no longer apply to low speed vehicles.

The **American opportunity credit** modifies the existing hope credit for tax years 2009 and 2010. The credit has been increased to \$2,500 (up from \$1,800). The credit adds required course materials (i.e. books) to the list of qualifying expenses and allows the credit to be claimed for four post-secondary education years instead of two.

A refundable tax credit is available for **qualifying first-time home purchases** after April 8, 2008, and before December 1, 2009. For homes bought in 2009, the maximum first time homebuyer tax credit is equal to the lesser of \$8,000 or 10% of the principal residence's purchase price. The credit phases out for individual taxpayers with modified adjusted gross income between \$75,000 and \$95,000 (\$150,000 and \$170,000 for joint filers) for the year of purchase. An individual is treated as a first-time homebuyer if he had no ownership interest in a principal residence in the U.S. during the 3-year period before the purchase of the home. A taxpayer who buys a qualifying residence after December 31, 2008, and before December 1, 2009, may elect to be treated as having bought the home on December 31, 2008, so that he may claim the credit on the 2008 income tax return.

The law signed under the WHBAA, **extends the deadline and maintains the requirements and credit limit** for first-time homebuyers. In addition, it makes it available to higher-income taxpayers and to qualifying "long-time residents" who buy another principal residence. The updated act is extended to apply to a principal residence purchased by the taxpayer before May 1, 2010 or by a qualified taxpayer who enters into a written binding contract before May 1, 2010, to close on the purchase of a principal residence before July 1, 2010.

The updated law defines **existing homeowners who are "long-time residents,"** as any individual who has maintained the same principal residence for any 5-consecutive year period during the 8-year period ending on the date of the purchase of a subsequent principal residence. The maximum allowable credit for such taxpayers is the lesser of \$6,500 (\$3,250 for a married individual filing separately or 10% of the purchase price of the subsequent principal residence. For purchases after November 6, 2009 the credit phases out for individual taxpayers with modified adjusted gross income between \$125,000 and \$145,000 (\$225,000 and \$245,000 for joint filers) for the year of purchase. Please note for returns for tax years ending after November 6, 2009, the credit is not allowed unless the taxpayer attaches a copy of the settlement statement to the tax return.

For 2009, those who qualify are **not required to take a minimum distribution** from your traditional IRA. The waiver applies to IRA participants as well as to beneficiaries. The waiver also applies if you turn 70 and a half in 2009 and delay your 2009 required minimum distribution until April 1, 2010.

Taxpayers may elect **tax-free distributions up to \$100,000 from IRA's for charitable purposes** through 2010. However, no charitable deduction is allowed for any portion of these withdrawals that would have been otherwise taxable.

The option to claim an itemized deduction for **state and local general sales tax** instead of the itemized deduction for state and local income taxes has been extended through 2010.

Important Changes for Businesses

ARRA extended the **50 percent special depreciation allowance** that was available for 2008 acquisitions to acquisitions of qualifying property in 2009.

During 2009, small businesses **can elect to expense up to \$250,000** of the cost of qualifying property. The \$250,000 amount provided under the new law is reduced if the cost of all section 179 property placed in service by the taxpayer during the tax year exceeds \$800,000. It is unclear whether Congress will renew the expanded limits for 2010 and future years.

The credit for **increasing research activities** is set to expire in 2009. However, current legislation is awaiting final passage from the Senate to extend the credit through 2010.

ARRA has also **updated the tax treatment regarding NOLs**. For NOLs arising in tax years ending after December 31, 2007, small businesses can elect to increase the NOL carryback period for an applicable 2008 NOL from 2 years to 3, 4, or 5 years. An applicable 2008 NOL is the taxpayer's NOL for any tax year ending in 2008, or, at the taxpayer's election, any tax year beginning in 2008. The election is irrevocable. An eligible small business is any trade or business (i.e. a corporation, partnership, or sole proprietorship) whose average annual gross receipts (for the three-tax-year period or shorter period of existence) ending with the tax year in which the loss arose are \$15 million or less.

WHBAA extends the election to most qualifying taxpayers to **increase the carryback period for an applicable NOL to 3, 4, or 5 years from 2 years**. However, for non small businesses, if they elect to carry back to the 5th year, they will be limited to 50% of the of the taxpayer's taxable income for that 5th preceding tax year. The 50% limitation doesn't apply to the applicable 2008 NOL of an eligible small business with respect to which an election is made under pre-Act law even if the election is made after November 6, 2009.

For tax years beginning in either 2009 or 2010, the new law eliminates the **corporate level tax** on the **built-in gains of an S-Corporation** that converted from a C-Corporation status at least seven years before the current tax year.

WHBAA provides that the **6.2% FUTA (unemployment) tax rate** continues to apply through June of 2011, and the 6.0% rate applies for the remainder of calendar year 2011 and for later years. The FUTA tax applies to the first \$7,000 that is paid to each employee during a calendar year after subtracting any payments exempt from FUTA tax.

First-year **luxury auto limits** for vehicles first placed in service in 2009 are \$10,960 for autos and \$11,060 for light trucks or vans. For vehicles ineligible for bonus depreciation, or if the taxpayer elects out, the limit is \$2,960 and \$3,060, respectively.

Increased penalty for failure to file Partnership or S Corporation returns

Under the WHBAA, the base amount on which a penalty is computed for a failure with respect to filing either a partnership or S corporation return for tax years beginning after December 31, 2009, is increased to \$195 per partner or shareholder.

Last-minute moves that save estate taxes for 2009 and beyond

Make year-end gifts. A person can gift any other person up to \$13,000 for 2009 without incurring any gift tax. Taxpayers who expect eventually to have estate tax liability and who can afford to make gifts to family members should do so. Besides avoiding transfer tax, annual exclusion gifts take future appreciation in the value of the gift property out of the donor's estate, and shift the income tax obligation on the property's earnings to the donee who may be in a lower tax bracket.

The estate tax was supposed to end for estate of decedents dying in 2010 but that appears unlikely. There is a serious move afoot in Congress to undo the repeal and keep the estate tax in force at the current exemption level of \$3.5 million per person. If and when the ultimate estate tax reform is enacted into legislation, it would seem prudent to engage the services of your estate tax professional (s) to review your present estate plan.

Health care reform

Current legislation could have potential changes in regards to health care financing, taxation, and reporting. These changes could affect W-2 reporting and have other tax consequences. We will be sure to keep you updated once final passage of legislation occurs.

New reseller permits to replace resale certificates beginning January 1, 2010

The Washington state department of revenue has begun issuing reseller permits to businesses. Under the new system, the department will issue numbered permits to wholesalers, retailers, manufacturers and qualified contractors that allow them to make wholesale purchases without paying sales tax. Businesses that don't have a reseller permit after December 31, 2009, must pay sales tax on their purchases. If the products are resold, a deduction may be claimed for sales tax paid on their state excise tax returns or request a refund from the department. We have provided a link to the Wash-

ington state department of revenue for additional guidance: <http://dor.wa.gov/docs/pubs/misc/resellerpermitinfobrochure.pdf>.

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.

For the IRS updated information relating to **Benefit and Contribution Limits** for 2009, go to <http://www.ndhaccountants.com>.

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 compliance or planning advice which should be tailored to your particular situation. If you would like further details regarding the above or would like to discuss how the report may impact you, please contact us at your earliest convenience to discuss.

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