

Taxing Times

Tax information for clients and friends of Stambaugh Ness, PC



February 19, 2009

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Highlights of the new American Recovery and Reinvestment Act of 2009 (or "Stimulus Act") aren't the only new information we have for you. Don't overlook our Sales and Use Tax Exemption advice and S-Corps use of the EITC, below.

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The House and Senate conferees have reached an agreement reconciling their versions of the stimulus package. This much-anticipated stimulus package is titled the *American Recovery and Reinvestment Act of 2009*. Although this piece of legislation is massive, we have highlighted some of the Individual and Business incentives.

INDIVIDUAL INCENTIVES

Making Work Pay Credit

The Making Work Pay credit allows a credit against income tax in an amount equal to the lesser of 6.2% of earned income or \$400 (\$800 married filing joint). The credit will apply retroactively to January, 2009 and will extend through 2010. This credit will be taken through a reduction in wage withholding or in a lump sum when the tax return is filed. Self employed individuals will also qualify.

The credit will begin to phase out if modified adjusted gross income exceeds \$75,000 (\$150,000 married filing joint).

\$250 Economic Recovery Payment

The agreement provides a one-time payment of \$250 to



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individuals on fixed incomes (Social Security recipients, railroad retirees, disabled veterans, and retired government workers ineligible for Social Security).

AMT Patch

An Alternative Minimum Tax (AMT) patch was included for 2009. This permits most personal credits to reduce AMT liability and also allows slightly higher exemption amounts.

First-Time Homebuyer Tax Credit

The First-Time Homebuyer Tax Credit increases to a maximum of \$8,000, eliminating any payback after living in the home 36 months. This will apply to first-time homebuyer purchases of a principal residence from January 1, 2009 through December 31, 2009.

The credit begins to phase-out when AGI exceeds \$75,000 (\$150,000 for joint filers).

CRYSTAL COMMENTS: *"The no pay-back provision only applies to residences purchased after December 31, 2008. Purchases prior to 2009 continue to be governed by the original first-time homebuyer credit containing full payback with a maximum credit of \$7,500."*

New Car Deduction

Purchasers of new vehicles will receive a deduction for state and local sales taxes paid, subject to limits. Vehicles included are motorcycles, cars, SUV's, and trucks weighing 8,500 pounds or less. Motor homes also qualify.

Phase-out of the deduction occurs if adjusted gross income exceeds \$125,000 (\$250,000 joint filers).

CRYSTAL COMMENTS: *"Even though most provisions are retroactive to January 1, 2009, the new car sales tax deduction only applies to those vehicles purchased after date of enactment."*

Education Credit – "American Opportunity Tax Credit"

The Hope education credit will be temporarily enhanced to a maximum of \$2,500 credit per year extending to all four years of college. Income phase-out levels increase to \$80,000 (\$160,000 joint filers).

40% of the credit will be refundable, and qualifying expenses will include course materials.

Child Tax Credit

The refundable portion of the child tax credit increases for 2009 and 2010.

Earned Income Tax Credit

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

Taxability of Unemployment Compensation

Up to \$2,400 of unemployment compensation will be temporarily excluded from taxable income for 2009.

Transit Benefits

The monthly exclusion for transit passes and van pooling increases to \$230 per month.

Qualified Tuition Programs (529 plans)

In addition to tuition, Qualified Tuition programs may be used to pay for college-students' computers and computer technology, including internet access.

Residential Energy Property Credit

The conference agreement increases the residential energy property tax credit from 10% to 30%, and raises the maximum cap to an aggregate of \$1,500 for installations during 2009 and 2010.

CRYSTAL COMMENTS: *"Eligible residential improvements include insulation, exterior windows and doors, central air conditioners, natural gas, propane or oil water heaters or furnaces, hot water boilers, electric heat pump water heaters, metal roofs, and advanced main air circulating fans. Pre-2008 credits are not counted toward the \$1,500 maximum."*

Residential Energy Efficient Property Credit

The credit cap is removed for residential energy efficient solar hot water property, geothermal heat pumps, and wind energy property.

BUSINESS INCENTIVES

Bonus Depreciation

First-year 50% bonus depreciation is extended through 2010. Also extended are the higher-caps on vehicle depreciation up to \$8,000 for 2009.

Code Sec. 179 Expense

Increased Section 179 expensing extends through 2009.

CRYSTAL COMMENTS: *"Section 179 expense was scheduled to revert to a maximum of \$125,000. The conference agreement extends the increased expense amount to \$250,000."*

NOL Carryback

The conference agreement allows a five-year carryback of a 2008 Net Operating Loss, but only for qualified small business with average gross receipts of \$15 million or less.

Work Opportunity Tax Credit

The existing Work Opportunity Tax Credit includes two new categories of targeted groups: unemployed veterans and disconnected youth. This applies to individuals hired and beginning work in 2009 or 2010.

Refundable Credits in Lieu of Bonus Depreciation

The conference agreement allows businesses to monetize accumulated AMT and R&D credits in lieu of taking bonus depreciation.

Cancellation of Indebtedness

Certain businesses may elect to recognize cancellation of indebtedness income over five years, beginning in 2014, for specified types of business debt repurchases by the business after December 31, 2008 and before January 1, 2011.

S Corp Built-In Gain Period

The agreement temporarily shortens the holding period for assets subject to built-in gains tax from 10 to 7 years. This would apply to C corps that convert to S corps in 2009 and 2010.

COBRA Benefits

COBRA coverage is temporarily enhanced. Laid-off workers would pay only a portion of the COBRA premium (35%) and the former employer would pay the remaining premium (65%) for 9 months. The employer would be able to credit its share of the subsidy against wage withholdings and payroll taxes. Income thresholds will apply.

Withholding on Government Contractors

The conference agreement delays 3% withholding on government contractors through 2011.

STATE, LOCAL GOVERNMENT ASSISTANCE

The conference agreement provides fiscal relief for states facing large budget deficits. This is designed to prevent cuts in health care, education, law enforcement and other programs, avoid tax increases, and to increase pending or infrastructure improvements.

These programs include, but are not limited to:

- Recovery Zone Bonds
- Industrial Development Bonds
- Build America Bonds
- Qualified School Construction Bonds
- Qualified Zone Academy Bonds
- Tribal Economic Development Bonds
- High-Speed Rail Bonds
- AMT limits on new private activity bonds
- Tax-exempt interest paid to financial institutions

SALES AND USE TAX

PENNSYLVANIA'S THIRD PHASE OF USE TAX COLLECTION TO BEGIN

The Pennsylvania Department of Revenue is set to begin its third phase of business use tax voluntary compliance initiative. Since PA started their voluntary use tax collection efforts in 2005, they have collected over \$50 million in use tax.

Direct notices, accompanied by use tax returns, were mailed to businesses having no use tax reporting history. These notices encouraged businesses to review purchases and report any use tax liabilities.

In the near future, the department will focus on the third phase of this initiative – enforcement – targeting those businesses that failed to respond to prior notices. This will include the personal delivery of notices to business owners by Department of Revenue agents. During these visits, Revenue agents may also address other unresolved issues.

SALES AND USE TAX EXEMPTION FOR KEYSTONE OPPORTUNITY ZONE BUSINESSES

Pennsylvania has expanded the sales and use tax exemption for businesses constructing in a Keystone Opportunity Zone. According to Pennsylvania Senate Bill 1412, a business may purchase services or tangible personal property, other than motor vehicles, exempt from sales and use tax if these items are purchased for the exclusive use, consumption, or utilization at a facility located within a Keystone Opportunity Zone (KOZ) or a Keystone Opportunity Expansion Zone (KOEZ).

In June 2008, the Pennsylvania Senate signed an amended Senate Bill 1412 to include certain purchases of services or tangible personal property by construction contractors for use in a construction contract with a qualified KOZ business, landowner, or lessee. However, this bill was not effective until September 2008. In order for a qualified contractor to take advantage of this exemption, the construction contract with the eligible KOZ business, landowner, or lessee must be dated on or after September 8, 2008. This expansion of the sales and use tax exemption will apply to any qualified purchases made by a general contractor or subcontractor.

Keystone Opportunity Zones and Keystone Opportunity Expansion Zones are selected underdeveloped and underutilized commercial or industrial properties which provide little to no tax burden to businesses who develop in those areas. These zones were enacted to help promote economic growth and development in those selected areas. There are currently 12 Keystone Opportunity Zones located in Pennsylvania.

S-CORPS USE OF EDUCATIONAL IMPROVEMENT TAX CREDIT

EITC UPDATE PROVIDES GREAT NEWS TO S-CORPS

New for the 2008-2009 fiscal year, subchapter S-corporations and other "pass-through" business entities will be able to use their Education Improvement Tax Credit against PA personal income taxes from the PA business income of the "pass-through" entity. This is good news for the owner or shareholder of the S-corporation because previously the EITC could only be used to offset any PA Capital Stock and Franchise tax liability.

The Education Improvement Tax Credit Program (EITC) enables companies to support local nonprofit charities, at minimal cost. This credit provides companies with a 75% tax credit for donations to a non-profit scholarship or education improvement organization. The tax credit increases to 90% if the company commits to making the same donations for two consecutive years. A business paying taxes in Pennsylvania, can receive up to \$300,000 in tax credits annually.

Entities eligible to apply for EITC are businesses authorized to do business in the Commonwealth of Pennsylvania that are subject to the following taxes: Corporate Net Income Tax, Capital Stock Franchise Tax, Bank and Trust Company Shares Tax, Insurance Premiums Tax, or Mutual Thrift Institutions Tax, or Personal Income Tax of S Corporation Shareholders, or partners in a general or limited partnership.

If your business is interested in participating in this program, you can visit www.paschoolchoice.org to obtain a business application. Once your business receives an approval letter, you can begin submitting your monetary contributions to an approved organization. The PA Department of Revenue is

notified of your donation and applicable credit is applied to you business tax account.

For more information about any of these tax topics or other tax concerns, please contact Kevin or Crystal or your own SNPC tax professional at 717-757-6999/800-745-8233. You may also reply to this email.