

Public Law 111-5, **The American Recovery and Reinvestment Act of 2009**

CHANGES FOR INDIVIDUALS

- Provides a one-time \$250 “economic recovery payment” to be distributed by June 17, 2009 to residents of the United States eligible for social security, SSI (unless in a Medicaid institution), railroad retirement or veterans benefits in at least one month of the period November 2008-February 2009; the payment will reduce the “making work pay credit” for 2009.
- Increases tax liability in the case of individuals with modified adjusted income over a phase-out range of \$125,000-\$145,000 (\$250,000-\$290,000 on a joint return) and who accepted the 65 percent federal subsidy for the first nine months of COBRA payments available for terminations after August 31, 2008 and before 2010; a new penalty is created for failure to notify the employer after becoming ineligible for COBRA and its subsidy.
- Increases the alternative minimum tax exemptions in 2009 for cost of living but leaves the phase-out levels intact and continues to allow nonrefundable credits to offset AMT.
- Removes tax-exempt interest on private activity bonds issued in 2009 and 2010 (except bonds to refund prior bonds originally issued before 2004) as a preference item for alternative minimum tax (and adjusted current earnings (ACE) purposes in the case of a C corporation).
- Reduces the safe harbor for estimated taxes payable in 2009 to 90 percent of prior year liability for individuals with prior year adjusted gross income of less than \$500,000 (\$250,000 on a married filing separate return) if over 50 percent of gross income is from a small business of less than 500 employees.
- Excludes \$2,400 of unemployment compensation from income in 2009.
- For March 2009 through December 2010, increases the monthly exclusion for employer-provided transit and vanpool benefits to the same level as employer-provided parking (\$230 in 2009).
- Creates a refundable “making work pay credit” for 2009 and 2010 except for nonresident aliens and those who are dependents on another’s tax return equal to the lesser of 6.2 percent of earned income or \$400 (\$800 on

a joint return) phased out between \$75,000 and \$95,000 of modified adjusted gross income (\$150,000 and \$190,000 on a joint return) and reduced by the payments of up to \$250 for recipients of social security, SSI, railroad retirement, veterans benefits and government pensions; withholding tables are to reflect the reduced tax liability.

- Creates a refundable credit for 2009 of \$250 (\$500 on a joint return) for federal, state and local pensioners not covered by FICA who do not receive an “economic recovery payment”; the payment will reduce the “making work pay credit” for 2009.
- For 2009 and 2010, modifies the child credit of \$1,000 times each qualifying child under age 17 where the credit exceeds tax liability to permit a refund of up to 15 percent of earned income greater than \$3,000 (down from the inflation-adjusted \$12,550).
- For 2009 and 2010, for the earned income credit, increases the earned income percentage for families with three or more children from 40 to 45 percent of earnings up to \$12,570, effectively raising the maximum credit by \$628 for affected individuals and increases the phase-out levels for all married couples by \$1,880 (to create a \$5,000 difference from individual filers for 2009).
- Extends the first-time homebuyer credit through November 30, 2009 usable on 2008 or 2009 returns in the case of 2009 purchases and waiving recapture for 2009 purchases (irrespective of that election) retained as a principal residence for 36 months, increasing the maximum credit for 2009 to the lesser 10 percent of the purchase price or \$8,000 (\$4,000 on a married filing separate return).
- Extends the portion of the nonbusiness energy tax credit scheduled to expire after 2009 for one year, raising the applicable percentage to 30 percent and creating a \$1500 combined cap for 2009 and 2010 while eliminating the dollar limitations on individual items.
- Beginning in 2010, creates a credit for plug-in electric vehicles of \$2,500 plus an add-on of \$417 for each hour of capacity in excess of four with the credit not to exceed \$7,500 to be phased out over four quarters beginning with the second quarter after 200,000 such vehicles have been sold; beginning February 18, 2009, creates a credit of \$2,500 for low-speed vehicles with less than four wheels; and, for 2010 and 2011, creates a credit of the lesser 10 percent of the cost or \$4,000 for converting any motor vehicles to a plug-in.

- For amounts paid in 2009 and 2010, modifies the Hope Credit (renamed the American Opportunity Tax Credit) by:
 - covering 100 percent of the first \$2,000 of qualified tuition and related expenses (including course materials) and 25 percent on the next \$2,000 for each of the first four years of post-secondary education;
 - increasing the modified adjusted gross income phaseout to \$80,000-\$90,000 (\$160,000-\$180,000 for married taxpayers filing jointly);
 - making 40 percent of the credit refundable except for children who can be claimed as someone else's dependent;
 - allowing the credit to be claimed against alternative minimum tax.
- Expands Section 529 plans for 2009 and 2010 to cover the purchase of computer equipment, technology, internet access, educational software, including related services, if the costs are for the benefit of a qualifying student or family member (no software primarily for sports, games and entertainment).
- Creates an additional standard deduction or itemized deduction for regular tax and alternative minimum tax purposes (except for itemizers electing the sales tax deduction who already include this component) for state and local sales and excise taxes on cars, light trucks and motorcycles, in each case new and under 8,500 pounds, as well as new motor homes acquired after February 16, 2009 and before 2010; the deduction is limited to the portion of the cost under \$49,500 (one-half for married taxpayers filing separate) and is phased out for individuals with modified adjusted income between \$125,000 and \$135,000 (\$250,000 to \$260,000 on a joint return).

CHANGES FOR BUSINESSES

Public Law 115, the American Recovery and Reinvestment Act of 2009:

- For 2008 and 2009 permits all business entities with average gross receipts of the loss year and two preceding years (if in business) of less than \$15 million to elect by the extended due date of the return to carry back losses for any period up to five years.

- Retains through 2009 the \$250,000 Section 179 expensing along with the \$800,000 phaseout level (with fiscal year taxpayers electing between years beginning or ending in those years).
- Extends through 2009 the additional 50 percent first year depreciation allowance for most types of nondepreciable personal property.
- Retains through 2009 the additional \$8,000 first year depreciation allowance for new vehicles.
- Shortens to seven years the S corporation period for avoiding built-in gains from C corporation years if the seventh year occurs in 2009 or 2010.
- Allows taxable relief from indebtedness income on reacquisition by a business of its debt instruments in 2009 and 2010 to be reported ratably over five years beginning in 2014 (the exclusion on insolvency, qualified real property and qualified farm indebtedness must be waived for all years); acceleration applies on death and (for business taxpayers) liquidation or redemption of an interest.
- Increases the exclusion for most dispositions of “small business stock” issued by a C corporation from 50 percent to 75 percent, creating a 7 percent tax (.25 x .28 applicable capital gains rate) for stock acquired after February 17, 2009 and before 2011.
- For 2009 and 2010 expands the targeted groups for the work opportunity tax credit to include unemployed veterans (discharged in prior five years) and “disconnected youth” (aged 16-24, not in school, lacking sufficient skills and not really employed in last six months).
- Makes numerous changes to business energy credits including elimination of the credit cap on qualified solar hot water, geothermal and small wind energy property after 2008.
- Delays implementation of the 3 percent withholding by federal, state and local governments one year until 2012.

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