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FALL ISSUE

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Please call Peter Soh at 323-934-2462 or email peter@adviseinc.com if you have any questions.

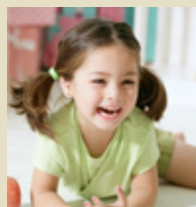
2008 TAX RELIEF

Dear Peter,

After 2008, those who missed out on the rebate or received only a partial rebate get a second shot at qualifying with 2008 data when they file their 2008 return in 2009. This group includes those who did not receive a full $600/$1,200 check either because their 2007 income was either too low or too high, or they did not receive a full $300 child credit because their income was too high or a child was born or adopted in 2008. They get another chance to claim the difference based on their 2008 tax return filed in 2009. If a taxpayer would have received a smaller rebate check if based on 2008 return information rather than his or her 2007 return, however, the taxpayer is not required to give back the difference.

Although determined based on the 2007 tax year, the rebate technically remains a credit against 2008 tax, payable in the form of an advance payment. Consequently, a taxpayer filing a 2007 return in 2008 cannot claim the rebate as an offset to his or her 2007 tax liability reported on that return in lieu of waiting to receive a check. Neither can the taxpayer choose instead to count the rebate as part of an estimated tax installment for either 2007 or 2008.

Child Payments



Besides the rebates, taxpayers with children may be eligible for $300 payments per child. For purposes of the new law, the child tax credit definition of qualifying child applies. The child credit is allowed with respect to each qualifying child of a taxpayer. A qualifying child must not

have attained the age of 17 as of the close of the calendar year in which the taxpayer's tax year begins. The qualifying child must be the taxpayer's qualifying child for purposes of the dependency exemption. Finally, the child must a son, daughter, stepson, stepdaughter, or descendant of such child, or a brother, sister, stepbrother, stepsister or a descendant of such relative.

Just like the rebates, the child payments phase out for higher income taxpayers. However, there is no cap on the number of child payments that qualifying taxpayers may receive. For example, a married couple with four qualifying children will receive four $300 payments.

Business incentives

Although not as extensive as originally proposed, the business incentives are nonetheless very valuable with careful planning. The new law nearly doubles the amount of deductible Code Sec. 179 expensing for 2008 and also provides for bonus depreciation. The new law does not allow taxpayers to carry back net operating losses beyond the current limits. Many businesses lobbied hard for this treatment but Congress left it out. However, there is talk on Capitol Hill of a second stimulus bill, so there may be more business tax incentives later this year.

Small business expensing

Before the new law, a business could expense up to $128,000 of the cost of qualifying property in 2008. If the cost of qualified property placed in service during the year is more than $510,000, the ceiling for that business is reduced by the amount over the applicable limit. Under the new law, a business can expense up to $250,000 of the cost of qualifying property and the old $510,000 ceiling jumps to $800,000. These are some very generous changes. If you're thinking about making a purchase for your business, give us a call. We can help you maximize your tax savings under the new law.

The new law makes no changes to the general rules for the types of property that are eligible for expensing. Generally, the property must be tangible personal property, which is actively used in the taxpayer's business and for which a depreciation deduction would be allowed. The property must be used more than 50 percent for business and must be newly purchased property. The existing exception for computer software applies to the enhanced expensing amounts under the new law.

Bonus depreciation

The other incentive is bonus depreciation. The new law provides qualifying taxpayers 50 percent first-year bonus depreciation of the adjusted basis of qualifying property. This provision is substantial, providing American businesses with an estimate $44 billion in additional deductions in 2008. Even compared against the rebate checks $107 billion price tag, the new bonus depreciation is huge.

To be eligible to claim bonus depreciation, property must be (1) eligible for the modified accelerated cost recovery system (MACRS) with a depreciation period of 20 years or less; (2) water utility property; (3) computer software (off-the-shelf); or (4) qualified leasehold property. The property generally must be purchased and placed in service during 2008. Original use of the property must begin with the taxpayer and must occur after December 31, 2007 and before January 1, 2009. There are exceptions for certain transportation property.

The new law also increases the Code Sec. 280F limitations on "luxury" auto depreciation to accommodate a modified version of the 50 percent bonus depreciation available to other "MACRS" property. The first-year limit on depreciation for passenger automobiles placed in service in 2008 is projected to be $2,960 for passenger vehicles and $3,160 for vans and trucks. The new law increases this limit to $8,000 if bonus depreciation is claimed for a qualifying vehicle placed in service in 2008 (for a maximum first-year depreciation of no more than $10,960 for autos and $11,160 for vans or trucks). If the vehicle is not predominantly used for business in a subsequent year, then bonus depreciation must be recaptured.

Housing Assistance Tax Act of 2008

Provides a four important tax law changes that impact individuals and small businesses. These tax laws are part of the larger Housing and Economic Recovery Act of 2008 (HR 3221 Public Law 110-289) which provides a number of laws relating to housing and mortgages.

The tax portion of this law mostly concerns housing programs targeted to the investment community. There are a number of revisions to the low income housing tax credit, housing and mortgage revenue bonds, and reform of the rules regarding real estate investment trusts. For individual investors, it is important to note that the low-income housing tax credit program has been expanded, and these credits can now offset the alternative minimum tax. Also, tax-exempt interest from housing bonds is now exempt from AMT.

Quick highlights of tax provisions for individuals and small businesses:

- Tax credit of up to $7,500 for first-time homebuyers, to be repaid over 15 years.
- Additional property tax deduction for people who don't itemize.
- Reporting of credit card and merchant payments to the IRS.
- Prorated capital gains exclusion for real estate for periods of non-primary use.

First Time Homebuyer Tax Credit

There's a new, refundable tax credit of up to $7,500 for purchasing a primary residence. The credit is available to first-time homebuyers. The credit is available for homes purchased after April 9, 2008, and before July 1, 2009. And the credit will need to be repaid in equal installments over 15 years.

Additional Standard Deduction for Property Taxes

Homeowners can claim an additional standard deduction for property tax if they do not itemize. The additional amount is limited to $500 or $1,000 for joint filers. The amount is claimed as an additional amount on top of their standard deduction. The deduction is valid for the 2008 tax year only.

Income Reporting for Credit and Debt Card Payments

Income received through credit and debit card transactions will be reported to the Internal Revenue Service starting in the year 2011. Card payment processors will report gross annual receipts to the IRS for businesses with merchant accounts. The income reporting is intended to crack down on merchants who "fail to report accurately their gross income," according the House Ways and Means Committee report. There are some exceptions to the income reporting for smaller merchants with card payments under $20,000 per year.

Prorated Capital Gains Exclusion for Residential Real Estate

The amount of profit from the sale of a house that can be excluded is now based on the percentage of time when the house was used as a primary residence. Previously, the tax laws allowed a homeowner to exclude up to $250,000 in gains (or $500,000 for joint filers) as long as the homeowner owned and lived in the house for at least two years out of the five years ending on the date of sale. Now, any gains will need to be allocated based on usage.

Only gains allocated to time spent living in the property as a primary residence will qualify for the tax exclusion.

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