



## **Second Quarter 2009 Brings Many Important Tax Developments**

The second quarter of 2009 saw significant federal tax developments from the White House, Congress and the IRS. Many of the developments relate to temporary tax breaks in the American Recovery and Reinvestment Act of 2009 (2009 Recovery Act), which Congress passed in February to help stimulate the U.S. economy. Additionally, important guidance for individuals, businesses and pension plans also came from the IRS. This article describes some of federal tax developments that occurred during the second quarter of 2009.

### **Making Work Pay credit**

Many wage earners are seeing an increase in their tax-home pay because of the Making Work Pay credit. Employers started using new withholding tables reflecting the credit in April. However, individuals with multiple jobs and some pension recipients may discover they had too little tax withheld when they file their 2009 returns in 2010. In May, the IRS issued a withholding option for pension plans to offset the Making Work Pay credit. The IRS also reminded individuals with more than one job to adjust their withholding.

### **Cash for clunkers**

You may have been hearing about the new federal program to encourage people to trade-in old "clunkers" for new fuel efficient vehicles. Under the "cash for clunkers" program, consumers are eligible for tax-free vouchers of either \$3,500 or \$4,500 toward the purchase or lease of a new, more fuel-efficient vehicle. The consumer will not recognize taxable income as the result of the voucher. The amount of the voucher generally depends on the type of vehicle purchased and the difference in fuel economy between the purchased vehicle and the trade-in vehicle. You will not receive a paper or electronic voucher. Rather, vouchers are applied to the purchase price of the vehicle by participating dealers. The cash for clunkers program began on July 1, 2009 and will end on November 1, 2009, or when the \$1 billion allotted for the program is depleted.

### **First-time homebuyer credit**

In April, the IRS reminded taxpayers that they cannot claim the first-time homebuyer tax credit in anticipation of a future purchase. Taxpayers qualify for the credit when they finalize the purchase of their home, which for most purchasers occurs at the time of the closing, the IRS explained. The first-time homebuyer credit reaches \$8,000 for purchases between January 1, 2009 and November 30, 2009. Taxpayers must be qualified buyers and satisfy income requirements.

In good news for home buyers, the U.S. Department of Housing and Urban Development (HUD) will allow taxpayers to monetize the first-time homebuyer credit. Taxpayers financing through a state housing agency and other HUD-approved tax credit advance programs can monetize 100 percent of the down payment. Taxpayers using Federal Housing Administration (FHA) lenders can apply the credit to closing costs or make a larger down payment above the FHA-required 3.5 percent minimum.

### **Motor vehicle sales tax deduction**

Taxpayers in states without a sales tax can deduct other fees to take advantage of the temporary motor vehicle sales tax deduction. The motor vehicle sales tax deduction is a temporary incentive created by the 2009 Recovery Act. The amount of the deduction is limited to the portion of the state sales or excise tax imposed on the first \$49,500 of the purchase price of the vehicle, and is subject to adjusted gross income (AGI) phaseouts. According to the IRS, Congress intended for all taxpayers and not just taxpayers in states with a sales tax to benefit from the incentive.

### **Cell phones**

An employee may exclude from gross income the business use of an employer-provided cell phone as a working condition fringe benefit. Twenty years ago, the government imposed tough documentation requirements for employer-provided cell phones. At that time, cell phones were new and very expensive, and the IRS was concerned about abuses. Today, cell phones are everywhere and both the price of phones and calling costs have fallen dramatically.

The IRS announced that it will revisit the documentation rules. In contrast to some reports, IRS Commissioner Douglas Shulman said that the agency is not "cracking down" on employer-provided cell phones, but is trying to make the rules less burdensome on employers and employees. Shulman said that the Treasury and the agency support the removal of cell phones from the category of so-called listed property under Code Sec. 280F, a designation that subjects business cell phones to strict substantiation requirements before their use by employees can be excluded from income. The IRS is considering three alternative methods to simplify the substantiation requirements: a minimal personal use method, a safe harbor substantiation method, and a statistical sampling method, or a combination of the aforementioned methods.

### **Vehicle depreciation dollar limits**

The IRS issued the depreciation limits for business automobiles, trucks and vans first placed in service in 2009 as well as the annual income inclusion amounts for vehicles first leased in 2009. The 2009 depreciation limits for passenger automobiles are the same as the 2008 limits while the depreciation limits for trucks and vans are lower than the 2008 limits. The IRS also described the additional first year depreciation deduction provided by *2009 Recovery Act*.

### **Tax evasion**

The IRS is undertaking a major initiative to encourage taxpayers to disclose unreported foreign bank accounts and assets. In exchange for full disclosure, the IRS will not criminally prosecute

tax evaders. These taxpayers must pay all back taxes plus interest and penalties, although the IRS will waive the 75 percent fraud penalty. The settlement offer is temporary and is only available through mid-September 2009.

*We will keep you updated on all these, and other, tax developments. If you have any questions about these or any federal tax developments please contact us at 978.620.2000.*

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