

IRS guidance fine tunes tax breaks in 2009 Recovery Act

The IRS is moving quickly to issue guidance on the many tax incentives for individuals and businesses in the American Recovery and Reinvestment Act of 2009 (2009 Recovery Act). Since Congress passed the multi-billion dollar stimulus package in February, the IRS has released guidance on the extended net operating loss (NOL) carryback for small businesses, the new Making Work Pay credit, the enhanced first-time homebuyer tax credit, the new COBRA subsidy, and the new sales tax deduction for motor vehicles.

Net operating losses

One of the most valuable tax breaks in the 2009 Recovery Act is the extended NOL carryback. Small businesses with an NOL in 2008 can offset this loss against income earned in up to five prior years. This special treatment will accelerate refunds and generate an immediate infusion of cash into a struggling business. The IRS expects record numbers of small businesses to be eligible for the carryback and has promised to expedite refunds.

To qualify for the new five-year carryback provision, a small business must have no greater than an average of \$15 million in gross receipts over a three-year period ending with the tax year of the NOL. Businesses with more than \$15 million in gross receipts can carry back their 2008 NOL for two years.

Generally small businesses that are not corporations (including sole proprietorships filing schedule C with their Form 1040) may accelerate a refund by using Form 1045, Application for Tentative Refund. Corporations with NOLs may accelerate a refund by using Form 1139, Corporation Application for Tentative Refund.

If your small business is in a loss position this year, the extended NOL carryback should not be overlooked. The requirements for the extended carryback are complex. Our office can help you elect this special treatment and maximize your refund.

Making Work Pay credit

Many employers have already implemented the new Making Work Pay credit. The credit reaches \$400 for single individuals and \$800 for married couples filing jointly. Like other incentives, the Making Work Pay credit phases out for higher income taxpayers (single individuals with modified AGI above \$75,000 and married couples filing jointly with modified AGI above \$150,000).

Taxpayers do not have to submit a new Form W-4 to their employers; the credit is automatic. However, an employee with multiple jobs or married couples whose combined incomes place them in a higher tax bracket may want to submit a revised W-4 to ensure sufficient withholding. Our office can determine if you need to adjust your withholding.

First-time homebuyer credit

The 2009 Recovery Act raised the maximum first-time homebuyer credit from \$7,500 to \$8,000 (\$4,000 for married couples filing separately) for qualified homes purchased before December 1, 2009. Congress also removed the repayment requirement for homes purchased in 2009. Like other tax incentives, the first-time homebuyer credit has income restrictions. The credit begins to phase out for single individuals with modified AGI above \$75,000 (\$150,000 for married couples filing jointly).

The IRS recently announced that taxpayers can claim the \$8,000 credit on their 2008 tax returns due April 15, 2009 or on their 2009 tax returns next year. Consequently, taxpayers have several filing options.

Taxpayers purchasing a home in the near future and who have already filed their 2008 returns may want to file an amended return. This will allow them to claim the credit almost immediately. However, some individuals may want to wait and take the credit in 2009.

Taxpayers purchasing a home who have not yet filed their 2008 returns may want to request a six-month extension (until October 15, 2009). Alternatively, they can file as planned and then file an amended return to take the credit.

If you are a first-time homebuyer in 2009, don't miss out on this valuable credit. Our office can recommend the best time to take the credit.

Economic recovery payment

Social Security recipients, disabled veterans and retired government employees may be eligible for one-time economic recovery payments of \$250. These payments are in lieu of the Making Work Pay credit. However, the economic recovery payment will be a reduction to any Making Work Pay credit for which the recipient qualifies.

The IRS will not be distributing the economic recovery payments. Individuals will receive them from the Social Security Administration, Department of Veterans Affairs, or other agency. The SSA expects to start making the payments in May.

COBRA subsidy

Individuals who are involuntarily terminated from employment between September 1, 2008 and December 31, 2009 may qualify for a 65 percent COBRA premium subsidy for up to nine months. Family members may also be eligible for the subsidy. Eligible individuals will pay 35 percent of the COBRA premium and employers will pay the remaining 65 percent. The COBRA subsidy, however, phases out for individuals whose modified AGI exceeds \$125,000 (\$250,000 for married couples filing jointly). Individuals with modified AGI exceeding \$145,000 (\$290,000 for married couples filing jointly) do not qualify for the subsidy.

Employers will recover their share through a payroll tax credit. The IRS has instructed employers to use Form 941, Employer's Quarterly Federal Tax Return, to report their COBRA premium assistance payments. In some cases, such as multi-employer plans, the plan provides the subsidy and will be reimbursed by taking a credit on Form 941.

Sales tax deduction for vehicle purchases

Congress created a temporary deduction in the 2009 Recovery Act for state and local sales and excise taxes paid on the purchase of new motor vehicles. Cars, light trucks, motor homes, and motorcycles are eligible for the deduction. The deduction is limited to the tax on up to \$49,500 of the purchase price of an eligible motor vehicle. Because this is an above-the-line deduction, taxpayers who do not itemize their deductions can also take advantage of it.

Similar to other incentives, there are income limitations. The deduction phase out for single individuals with modified AGI between \$125,000 and \$135,000 and married couples with modified AGI between \$250,000 and \$260,000.

We've covered a lot of material in a short time. As always, please contact our office if you have any questions about these valuable tax incentives.