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American Recovery and Reinvestment Act of 2009 is signed into law

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On February 17, President Obama signed the *American Recovery and Reinvestment Act of 2009*, a \$789 billion package of tax breaks and spending programs designed to stimulate the economy. The tax portion of the law makes over 300 changes to the tax code. Here is an overview of the major tax provisions.

PROVISIONS AFFECTING INDIVIDUALS

- **MAKING WORK PAY CREDIT.** A tax credit is provided for working Americans of up to \$400 for singles and \$800 for couples. The credit is available for 2009 and 2010. Taxpayers who qualify for the credit will take it through lower FICA tax withholding in their paychecks or in a lump sum when filing their tax returns for the year. The credit phases out for single taxpayers with adjusted gross income (AGI) over \$75,000 and for married couples with AGI over \$150,000.

The employer's share of FICA is not affected by the credit and remains unchanged.

- **\$250 PAYMENTS FOR SOME.** A one-time payment of \$250 will be made to social security recipients, railroad retirees, disabled veterans, and certain other fixed-income groups.

- **FIRST-TIME HOMEBUYER CREDIT.** Those who buy a first home from January 1, 2009, through November 30, 2009, may be eligible for a refundable tax credit of 10% of the home's purchase price up to a maximum credit of \$8,000. If the taxpayer lives in the home for at least three years, no repayment of the credit is required. The credit phases out for single taxpayers with an AGI over \$75,000 and for married couples with an AGI over \$150,000.

The previous first-time homebuyer credit of up to \$7,500 applies to purchases made on or after April 9, 2008, and before January 1, 2009. This credit must be repaid over 15 years, starting two years after it is claimed. The same income phase-outs apply to this credit.

- **NEW CAR DEDUCTION.** Taxpayers who purchase a new vehicle from February 17, 2009, through December 31, 2009, may take an above-the-line tax deduction for all state and local taxes attributable to the first \$49,500 of the purchase price. The deduction is subject to phase-out for singles with AGI exceeding \$125,000 and married couples with AGI exceeding \$250,000.

In general, qualifying vehicles include new cars, SUVs, light trucks, and motorcycles. To qualify, the vehicle must weigh no more than 8,500 gross pounds. Motor homes may also qualify.

- **EDUCATION CREDIT.** The Hope education credit is enhanced for 2009 and 2010. Renamed the “American Opportunity Tax Credit,” the credit is increased from \$1,800 to \$2,500 and applies to all four years of college, not just two. 40% of the credit is refundable, and income limits apply.
- **ALTERNATIVE MINIMUM TAX.** An early “patch” to the 2009 alternative minimum income tax is included in the law, saving some 26 million middle-income taxpayers from being hit by a tax originally designed to keep the wealthy from escaping taxes. The 2009 AMT exemption amounts are \$70,950 for joint filers and \$46,700 for single filers. The law also extends the use of certain personal credits to offset AMT liability for 2009.
- **CHILD TAX CREDIT.** The child tax credit provides a \$1,000 credit for each dependent child under age 17. The new law increases the refundable portion of the child tax credit for 2009 and 2010 by lowering the income threshold to \$3,000.
- **EARNED INCOME TAX CREDIT.** A temporary increase in the earned income tax credit will apply for 2009 and 2010. Taxpayers with three or more qualifying children will benefit; the new law increases the credit percentage from 40% to 45% of the first \$12,570 of earned income.
- **TRANSIT BENEFITS.** Certain transportation fringe benefits provided by employers to their employees are not included in the employees’ income for tax purposes. To treat the various kinds of benefits equally, the new law increases the current \$120 a month exclusion amount for transit passes and van pooling to \$230 a month, effective March 2009 through December 2009. The increase continues for 2010 subject to an adjustment for inflation. This change puts transit passes and van pooling on a par with the amount allowed for qualified parking.
- **529 COLLEGE PLANS.** The new law permits 2009 and 2010 distributions from 529 college plans to be used tax-free to pay for computers and computer technology as part of the qualified education expenses of the student.
- **ENERGY INCENTIVES.** Among the various energy incentives in the new law is an increase in the tax credit for residential energy improvements, such as installing insulation, energy-efficient windows, exterior doors, air conditioners, water heaters, and certain metal roofs.

The residential energy property tax credit is increased from 10% to 30%, and the maximum credit is increased from a \$500 lifetime credit to a \$1,500 total credit for 2009 and 2010 improvements.

Other changes are made to the various energy credits, including the credit for plug-in vehicles and low-speed vehicles.

- **UNEMPLOYMENT BENEFITS.** Unemployment compensation is usually included in income, but for 2009 up to \$2,400 of benefits are excluded from income for tax purposes. Unemployment benefits above \$2,400 are subject to tax.
- **COBRA BENEFITS.** The law provides subsidies for health insurance premiums paid under COBRA by workers who lose their jobs. The law provides a 65% subsidy for COBRA continuation premiums for up to nine months. This provision applies to workers who lose their jobs between September 1, 2008, and January 1, 2010, and whose income does not exceed \$125,000 (single) or \$250,000 (couples).

PROVISIONS AFFECTING BUSINESSES

- **BONUS DEPRECIATION.** First-year 50% bonus depreciation for new business equipment purchases is extended through 2009. For bonus depreciation purposes, the regular first-year depreciation dollar cap for new vehicles placed in service in 2009 is raised by \$8,000 also.

Bonus depreciation is extended through 2010 for property with a 10-year or longer recovery period, for certain transportation property, and for certain aircraft.

Under this new law, businesses may elect to use accumulated AMT and R&D credits in lieu of taking bonus depreciation on qualifying property placed in service in 2009.

- **INCREASED EXPENSING.** Code Section 179 first-year expensing of new and used business equipment purchases is extended through 2009 at the higher limit of \$250,000. The deduction is reduced once purchases for the year exceed \$800,000.
- **LOSS CARRYBACK PERIOD.** The new law allows businesses with average gross receipts of \$15 million or less to carry back net operating losses for up to five years, rather than the normal two years. The longer carryback period applies only to losses incurred in a tax year beginning or ending in 2008.
- **WORK OPPORTUNITY TAX CREDIT.** Two new categories of targeted groups are eligible for the work opportunity tax credit: unemployed veterans and disconnected youth. The credit applies to workers in these groups hired in 2009 and 2010.
- **ESTIMATED TAXES.** Individuals whose 2009 income is less than \$500,000, with more than 50% of that from a small business, may base their 2009 estimated tax payments on 90% of prior-year tax liability.

- **CANCELLED DEBT.** Certain businesses with forgiven debt will be able to defer recognizing that cancellation of indebtedness as taxable income until 2014 and then to pay the tax due over five years.

- **COBRA BENEFITS.** Employees who lose their jobs between September 1, 2008, and January 1, 2010, may elect to pay 35% of their COBRA coverage and have that treated as paying the full amount. The former employer is required to pay the remaining 65% and will be credited for this amount against income tax withholding and payroll taxes otherwise payable to the federal government. Income and other limitations on COBRA coverage apply.

- **ENERGY INCENTIVES.** The new law contains a number of energy incentives intended to expand the development of alternative energy sources and create “green collar” jobs. Some existing credits are increased – for example, the credit for alternative fuel vehicle refueling stations and electricity production from renewable sources such as wind.

The new law is a massive 1,000 page document, so this quick review by no means covers all the provisions that may affect you. For guidance in your personal and business tax planning under this latest law, contact our office.