

On February 17th, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), which included many new provisions and tax breaks for individuals and businesses. As many of these new provisions offer valuable tax planning opportunities, we wanted to review the potential benefits and urge you to speak with your tax advisor at Seiler LLP.

While the following summaries are meant to be easy-to-read overviews of the current tax initiatives, in fact, many of these new provisions have layers of complexity and highly specific requirements. Together, as we navigate this challenging financial environment, Seiler LLP will help you take advantage of all the provisions in this historic act that may benefit you and your family or business.

INDIVIDUAL PROVISIONS AND TAX CREDITS

“Making Work Pay” Tax Credit

This provision provides a tax credit of up to \$400 for single taxpayers, or \$800 for married couples filing jointly. The credit is 6.2% of your earned income, but phases out if your adjusted gross income (AGI) is \$75,000 for single taxpayers, or \$150,000 for married couples filing jointly.

This credit is in effect for tax years 2009 and 2010 and is claimed either through the federal income tax withholdings from your paycheck or by claiming the credit on your income tax return.

First Time Homebuyer Credit

A first time homebuyer is defined as someone who hasn't owned a home for three years before the purchase. This provision increases the credit for first time homebuyers to \$8,000 for purchases made between January 1, 2009 and December 1, 2009. The First Time Homebuyer Credit does not have to be repaid, as long as the home is not resold and it remains the principal place of residence for 24 months.

This credit phases out if your AGI is in excess of \$75,000 for individuals or \$150,000 for joint returns. Please contact us for additional details about this provision.

Deductions on Sales Tax for Car Purchases

The state, local and excise taxes on the purchase of a new vehicle are deductible for “qualified motor vehicles”, which are generally defined as light trucks, motorcycles, motor homes and new passenger automobiles. This deduction phases out if your AGI is \$125,000 for singles or \$250,000 for married couples filing jointly.

Alternative Minimum Tax Relief

The Alternative Minimum Tax Relief (AMT) has been extended and increased for 2009. The exemptions are increased to \$46,700 for individuals and \$70,950 for married couples filing jointly.

In addition, various nonrefundable tax credits may be used to offset regular tax and AMT. We can give you more details on this provision for your tax planning this year.

Child Tax Credit

For 2009, eligible taxpayers may claim a tax credit of \$1,000 for each qualifying child less than 17 years of age. Plus, in 2008, the child tax credit was refundable to 15% of the taxpayer's earned income, in excess of \$8,500. For 2009, this "floor" is reduced to \$3,000, thereby increasing the refundable amount.

American Opportunity Education Tax Credit

This provision renames and enhances the HOPE Scholarship Credit by increasing the years for credits from two to four, and increasing the amount to \$2,500 for qualified tuition and related expenses for undergraduate education. 40% of the credit is refundable and phases out when AGI levels reach between \$80,000-\$90,000 for single taxpayers, or \$160,000-\$180,000 when filing jointly.

Student Computer Purchase

The ARRA expands the definition of qualified student expenses for Section 529 Plans to include a student's computer, software and peripheral equipment, which may now be treated as an education expense.

Executive Pay Restrictions

For financial institutions accepting Troubled Asset Relief Program (TARP) monies, the ARRA restricts executive pay and implements more checks and balances relative to executive compensation.

Economic Recovery Payment

Individuals receiving Social Security benefits, SSI, Railroad Retirement and Veterans Disability Compensation Benefits, are eligible for a one time credit of \$250. However, for those who are employed, this credit will be offset by the Make Work Pay Credit. The IRS has yet to announce the timing of this payment or how this provision will be coordinated with the Make Work Pay Credit.

Earned Income Tax Credit

For many low-income families, the Earned Income Tax Credit will increase in 2009 and 2010. The credit is 45% of the family's first \$12,570 for a family with three or more children. The credit phase out has been raised to \$21,420, an increase of \$1,880.

EMPLOYEE / EMPLOYER PROVISIONS

COBRA Premium Assistance for Recently Terminated Employees

For employees who are involuntarily terminated between September 1, 2008 and December 31, 2009, the federal government will subsidize 65% of the COBRA premium. This provision applies to qualified beneficiaries of the employee as well. Further, employees and qualified beneficiaries who opted not to elect COBRA, have an additional 60 days in which to elect COBRA.

This subsidy phases out between \$125,000 and \$145,000 for single taxpayers, and between \$250,000 and \$290,000 for married couples filing jointly.

Companies and plan sponsors will need to work closely with their COBRA administrators to ensure compliance. The employer will need to pay the 65% and then take a payroll tax credit for that amount.

BUSINESS PROVISIONS AND TAX CREDITS

50% Bonus Depreciation - Extended

For expenditures made in 2009 (and for certain longer-lived assets in 2010), the 50% Bonus Depreciation has been extended.

Section 168(k)(4) Election to Accelerate AMT or R&D Credits - Extended

The option for election to accelerate the recognition of AMT credits or R&D credits in lieu of bonus depreciation has been extended until January 1, 2009. The acceleration arises as a result of foregoing bonus depreciation on the property. The reduced deduction is limited to the lesser of 6% of historic AMT and R&D credits or \$30 million.

Small Business Expensing Rules - Extended

In 2008, the expensing provision for small businesses was increased to \$250,000 for assets purchased in 2008. The limitation for businesses that purchased more than \$800,000 in assets was phased out. This rule has now been extended throughout tax year 2009.

Net Operating Loss (NOLs) Carryback Period Extended to Five Years

Businesses with \$15 million or less in revenues (beginning with 2008 NOLs), can make carryback elections to carry the loss back for up to five years. Previously made elections can be changed only once and must be made on a timely basis.

Temporary Estimated Tax Relief for Small Businesses

If an individual has an AGI below \$500,000 for tax year 2009, and more than 50% of that income comes from a small business, the individual will not incur a penalty for underestimating taxes. However, the payments made must be equal to at least 90% of the tax liability for the year.

For this provision, a small business is defined as having fewer than 500 employees.

Small Business Stock Capital Gains

If an individual invests in the stock of a small business and holds that investment for at least five years, they may exclude up to 75% of the gain realized on the disposition of that stock, provided certain other restrictions are met. For this provision, a small business is defined as a corporation with less than \$50 million in gross assets. This provision is effective for investments made after the date of enactment and before January 1, 2011.

Holding Period to Avoid S Corporation Built-in Gains Tax

Prior to enactment of the ARRA, a C corporation converting to a S corporation had to hold assets for at least ten years in order to avoid corporate tax on any built-in gains in assets sold. With the passage of the ARRA, this holding period is temporarily reduced from ten to seven years. This applies to corporations which have reached the seven year threshold when the sales occur in 2009 and 2010.

Work Opportunity Credit - Expanded and Enhanced

A Work Opportunity Credit is an incentive available to employers who hire disadvantaged workers from certain defined groups. The categories for which an employer can obtain the Work Opportunity Credit for unemployed individuals have been expanded to include unemployed veterans and disconnected youth, with specific additional criteria for both these categories. This credit is available for employees who started work after December 31, 2008 and to the employer for years 2009 and 2010.

Delayed Recognition of Certain Cancellation of Debt Income

Certain businesses can cancel or repurchase their own debt for an amount less than the adjusted issue price without an immediate income tax penalty. With the passage of the ARRA, certain businesses will be allowed to recognize the discount as cancellation of debt income ("CODI") over a 10 year period. These businesses can defer tax on CODI for the first five years for debt repurchased in 2009 or the first four years for debt repurchased in 2010. These businesses can recognize this income ratably over the subsequent five tax years.

While the ARRA offers many new provisions and tax breaks, some of these changes are only temporary. Seiler LLP is happy to assist you in identifying all of the potential benefits this Act may offer.

ABOUT SEILER LLP

Advising privately held businesses and high net-worth individuals, Seiler LLP is one of the largest and most well-established CPA firms in the country. Although most of our clients are local, our reach extends across the country and around the world.

Recognized as one of the top 25 firms in the nation, Seiler LLP is the firm of choice in four areas of expertise including tax consulting, family office, assurance, and litigation services.

Inside our Silicon Valley and San Francisco offices, you'll find a highly progressive company that encourages mentoring, inspires loyalty, and promotes a healthy work/life balance. On a daily basis, we hold ourselves to the highest standards of integrity and excellence in our work, in the personal attention we give our clients, and in our dedication to their success. For more information please visit www.seiler.com.