



Fred J. Toroni & Company

CERTIFIED PUBLIC ACCOUNTANTS

RECOVERY ACT REMINDERS FOR 2009

INCOME

Unemployment compensation. For 2009, \$2,400 of unemployment compensation is excluded from tax.

DEDUCTIONS

Motor vehicle taxes. Taxpayers may deduct "qualified motor vehicle taxes," defined as state or local sales or excise taxes imposed on the purchase of a new qualified motor vehicle. The vehicle must be a passenger car, light truck or motorcycle weighing 8,500 pounds or less or a motor home. The vehicle must be acquired after Feb. 17, 2009, and before 2010. The deduction is limited to tax on the first \$49,500 of the purchase price.

Taxpayers who itemize and elect to deduct general sales taxes rather than state and local income taxes may not claim the additional standard deduction for the vehicle sales tax. The deduction phases out for individuals with modified AGI between \$125,000 and \$135,000 (\$250,000 and \$260,000 if married filing jointly). The deduction is also allowed for alternative minimum tax (AMT) purposes if claimed as a standard deduction. Guidance is needed on whether the deduction is allowed for AMT when the taxpayer itemizes deductions.

Limitation on itemized deductions. In a news release April 7, 2009, the IRS said convenience fees associated with the electronic payment of federal tax, including payment of estimated tax, can be deducted as a miscellaneous itemized deduction (IR-2009-37). This reversed a previous policy. Accordingly, taxpayers who are able to file Form 1040, Schedule A, *Itemized Deductions*, and deduct miscellaneous deductions exceeding 2% of their adjusted gross income (AGI) will get a tax deduction for these fees.

Credit or debit card convenience fees charged for paying taxes electronically vary but average about 2.5% of the tax payment. The fees are deductible in the year they occur.

Most individuals still pay their federal tax obligations by check, but last year more than 4 million taxpayers paid their taxes electronically, according to the news release.

CREDITS

Child tax credit. While the amount of the child tax credit remains at \$1,000 per dependent child under age 17, under the ARRA, the refundable portion is increased for tax years 2009 and 2010 to the extent of 15% of the taxpayer's earned income over \$3,000 (lowered from \$8,500). Beginning in tax year 2009, a child who qualifies for the child tax credit must also be the taxpayer's dependent.

Hope credit. For tax years beginning after Dec. 31, 2008, the section 25A Hope credit, renamed the American Opportunity Tax Credit by the ARRA, is increased to a maximum of \$2,500 per year (100% of the first \$2,000 of qualifying expenses and 25% of the next \$2,000), with 40% of the credit refundable.

The credit is phased out for taxpayers with AGI between \$80,000 and \$90,000 (\$160,000 and \$180,000 for married filing jointly). The provision extended the credit to all four years of college and expanded the definition of qualifying expenses to include course materials. The Treasury Department is directed to study and report within one year of enactment on how to coordinate the section 25A education credits (including the Lifetime Learning

Credit) with the federal Pell Grant program and the feasibility of requiring students to perform community service in return for the credits.

Energy credits. The ARRA introduced or extended a range of energy tax incentives for individuals and businesses, including credits for energy efficiency equipment and building components, plug-in electric drive vehicles (section 30D) and renewable energy production.

Earned income credit. For tax years 2009 and 2010, the earned income tax credit percentage for families with three or more qualifying children is increased from 40% to 45%.

First-time homebuyer credit. For home purchases after Dec. 31, 2008, and before Dec. 1, 2009, the ARRA increased the amount of the first-time homebuyer credit from \$7,500 to \$8,000 (\$4,000 for married taxpayers filing separately). A first-time homebuyer is an individual who had no ownership interest in a principal residence in the United States during the three-year period ending on the date of the purchase of the home to which the credit applies. Further, taxpayers who remain in the home for 36 months are not required to repay the credit. In any case, no amount is required to be recaptured after the death of the taxpayer. The credit phases out for individuals with AGI between \$75,000 and \$95,000 (\$150,000 to \$170,000 AGI for joint filers).

The taxpayer may elect to treat a purchase during 2009 as made on Dec. 31, 2008, so it may be claimed on a 2008 amended return (the AGI limitations would then be based on 2008 information).

Notice 2009-12, 2009-6 IRB 446, explains how to divide the credit when two or more unmarried individuals purchase the principal residence. The notice provides several examples on how to claim the credit.

Making work pay credit. New section 36A allows a credit of the lesser of 6.2% of an individual's earned income or \$400 (\$800 for married filing jointly). Earned income for these purposes includes net earnings from self-employment that are includable in taxable income, as well as combat pay excluded from gross income under section 112.

Effective for tax years 2009 and 2010, the credit is intended to offset an individual's share of FICA on the first \$6,452 of earnings. The credit is phased out at a 2% rate for individuals whose modified AGI exceeds \$75,000 (\$150,000 for married filing jointly). The credit is not available to nonresident aliens, individuals who may be claimed as a dependent by another taxpayer, or any estate or trust. It may be claimed through a reduction in wage withholding or in a lump sum on the tax return filed for the year the wages were earned.

The credit will be reduced by the onetime economic recovery payments of \$250 provided by the Veterans Administration, Railroad Retirement Board and the Social Security Administration under ARRA §§ 2201 or 2202. New Schedule M, *Making Work Pay and Government Retiree Credits*, is attached to Form 1040 to compute the proper amount of the credit.

ALTERNATIVE MINIMUM TAX

AMT exemptions. The ARRA increased the AMT exemptions for 2009 to \$70,950 for a joint return, \$46,700 for single taxpayers and heads of household and \$35,475 for married taxpayers filing separately. Commonly referred to as the "AMT patch," this measure comes with an estimated cost of \$70 billion to provide AMT relief to an estimated 26 million taxpayers. The ARRA also extends to tax years beginning in 2009 the rule allowing nonrefundable personal tax credits against AMT.

Adjustments in computing AMT. The ARRA allowance for up to a five-year carryback of NOLs for tax years beginning or ending in 2008 (see "Net operating losses" earlier) applies under the AMT as well as regular tax. However, the 90% limit on use of an AMT NOL did not change (a proposal to change the limit to 100% did not become law).