

ECONOMIC STIMULUS ACT PROVIDES SUBSTANTIAL TAX BREAKS FOR BUSINESSES AND INDIVIDUALS

A sweeping \$787 billion stimulus package aimed at reviving the flagging U.S. economy was signed into law by President Barack Obama on February 17, 2009. The American Recovery and Reinvestment Act (ARRA) of 2009 is expected to create jobs, encourage consumer spending, improve essential infrastructure, and strengthen the safety net for Americans affected by the recession. The legislation includes nearly \$300 billion in tax cuts intended to promote additional spending by individuals and businesses, make higher education more affordable, and encourage both homeowners and business owners to invest in clean-energy technologies.

BUSINESSES WILL ENJOY NEW TAX BREAKS

Reduced estimated tax payment requirements. For 2009, ARRA reduces the estimated tax payment requirements for many small business owners. Owners generally will qualify for the reduced payments if their adjusted gross income (AGI) for 2008 was less than \$500,000 and if more than 50% of their 2009 gross income is generated from a "small business," which is defined as a business that, on average, had fewer than 500 employees during 2008.

Deferral of income from cancellation of debt. Taxpayers generally must recognize cancellation-of-debt income (CODI) when they cancel — or repurchase — debt for an amount less than its adjusted issue price. In certain situations, ARRA allows businesses to defer CODI generated from repurchasing business debt after Dec. 31, 2008, and before Jan. 1, 2011, until calendar year 2014 and then report the income ratably over the 2014 through 2018 tax years.

S corporation built-in gains tax relief. Although a C corporation conversion to an S corporation is not a taxable event, the S corporation normally must hold on to its assets for 10 years to avoid tax on any built-in gains that existed at the time of the conversion. Under ARRA, for tax years beginning in 2009 and 2010, there generally will be no tax on an S corporation's net unrecognized built-in gain if the seventh tax year in the recognition period occurred before the 2009 and 2010 tax years.

OTHER BUSINESS BREAKS EXPANDED

Net operating loss carryback. Generally, a net operating loss (NOL) may be carried back two years to generate a current tax refund, providing a cash infusion in times of loss. For 2008 (not 2009), ARRA extends the maximum NOL carryback to five years for qualified small businesses with gross receipts of \$15 million or less.

Work opportunity credit. Employers can claim a credit equal to 40% of the first \$6,000 of wages paid to employees in certain target groups, such as ex-felons, food stamp recipients and disabled veterans. ARRA expands the eligible target groups to include unemployed veterans and disconnected youth. This expanded benefit generally applies to such workers hired in 2009 and 2010.

DEPRECIATION BREAKS EXTENDED

To spur additional investment, ARRA extends the increase in the Section 179 limit for initial year expensing to \$250,000 (from \$125,000 indexed for inflation). The expensing election begins to phase out dollar for dollar when total asset acquisitions for the tax year exceed \$800,000 (up from \$500,000 indexed for inflation). The new higher limit applies for calendar year 2009 or a business's fiscal year that begins in 2009.

Another depreciation-related provision extends the special allowance for certain property, generally if acquired in 2009. For eligible property, the special depreciation amount is equal to 50% of its adjusted basis. For passenger automobiles that are eligible property under the 50% bonus depreciation rules, the \$8,000 increase for the first-year limit on depreciation also is extended to new vehicles placed in service in 2009.

Last year, corporate taxpayers were also allowed to accelerate their alternative minimum tax (AMT) and research and development (R&D) credits in lieu of taking the 50% bonus depreciation. That break has now been extended through 2009.

ENERGY-RELATED BREAKS FOR BUSINESSES EXPANDED

ARRA creates or expands several energy-related breaks for businesses, such as the:

- Advanced energy investment credit,
- Renewable electricity production credit, and
- Alternative fuel pump tax credit.

INDIVIDUALS ALSO ENJOY NEW TAX BREAKS

New relief for most workers, retirees and other Social Security recipients. For 2009 and 2010, ARRA creates the *Making Work Pay* credit of up to \$800 for joint filers and \$400 for other filers. The credit generally phases out for joint filers with AGIs exceeding \$150,000 and for other filers with AGIs exceeding \$75,000. Unlike last year's "recovery rebate," which was distributed via checks mailed to taxpayers, the new credit will generally be "paid" through a reduction in income tax withholding.

The Act also provides a one-time payment of \$250 to many people on fixed incomes, such as Social Security recipients and disabled veterans. Similarly, it provides a one-time refundable tax credit of \$250 to certain government retirees who are not eligible for Social Security benefits. Both the \$250 payment and \$250 credit reduce any allowable *Making Work Pay* credit.

New sales tax deduction for vehicle purchases. ARRA creates a new above-the-line deduction for state and local sales and excise taxes paid on the purchase of new cars, light trucks, motorcycles and recreational vehicles. The deduction is available for vehicles purchased from Feb. 17, 2009 through Dec. 31, 2009.

The deduction is not, however, available for tax attributable to vehicle value in excess of \$49,500. The deduction also phases out based on AGI, but the limits are higher than those for the *Making Work Pay* credit: The phaseout begins for joint filers with AGIs exceeding \$250,000 and for other filers with AGIs exceeding \$125,000.

OTHER INDIVIDUAL BREAKS EXPANDED

Credit for first-time homebuyers. Last year, a refundable credit equal to 10% of the purchase price of a principal residence was made available to qualified first-time homebuyers. This credit was set to expire July 1, 2009, but ARRA extends its availability to purchases made before Dec. 1, 2009. For qualifying purchases made after Dec. 31, 2008, the Act also increases the maximum credit from \$7,500 to \$8,000. Perhaps most significant, the Act eliminates the repayment obligation for taxpayers whose qualifying purchase occurs after Dec. 31, 2008 — except in situations where a home is sold within three years of purchase.

American Opportunity education credit (previously called the Hope credit). For 2009 and 2010, ARRA expands this credit to cover 100% of the first \$2,000 of tuition and related expenses (including books) and 25% of the next \$2,000 of such expenses. The maximum credit is \$2,500 per year for the first four years of postsecondary education. (The maximum Hope credit was \$1,800 and applied to only the first two years of postsecondary education.) The credit phases out for joint filers with AGIs exceeding \$160,000 and for other filers with AGIs exceeding \$80,000.

529 savings plans. 529 plan distributions used to pay qualified education expenses — tuition, room, board, mandatory fees and books — are generally tax free. For expenses paid in 2009 and 2010, ARRA expands the definition of qualified education expenses to include computers and computer technology.

Qualified small business stock gain exclusion. Generally, taxpayers selling qualified small business (QSB) stock are allowed to exclude 50% of their gain as long as they've held the stock for at least five years. ARRA increases the exclusion to 75% if the stock is issued after Feb. 17, 2009 and before Jan. 1, 2011.

AMT RELIEF GRANTED EARLY THIS YEAR

One tax provision affecting individuals that many thought would not be enacted until later in the year is the extension of alternative minimum tax (AMT) relief. ARRA provides a one-year "patch" that increases the AMT exemption. For married couples filing jointly, the 2009 exemption is \$70,950. For singles and heads of households, it's \$46,700, and for married filing separately, it's \$35,475.

The patch also expands the AMT income ranges over which the exemptions phase out and only partial exemptions are available. The 2009 phaseout ranges are now \$150,000 to \$433,800 for married filing jointly, \$112,500 to \$299,300 for singles and heads of households, and \$75,000 to \$216,900 for married filing separately. The exemption is completely phased out if AMT income exceeds the top of the applicable range.

Additionally, ARRA extends a provision through 2009 that allows certain nonrefundable personal tax credits to provide a benefit against the AMT. These include the dependent care credit, the American Opportunity credit and the Lifetime Learning credit. The Act also excludes from the AMT any income from tax-exempt bonds issued in 2009 and 2010, along with 2009 and 2010 refundings of bonds issued after Dec. 31, 2002, and before Jan. 1, 2009.

ENERGY-RELATED BREAKS EXPANDED FOR INDIVIDUALS

ARRA creates or expands several energy-related breaks for individuals, such as:

- Transit benefits,
- Residential energy property credit,
- Residential energy-efficient property credit, and
- Plug-in electric vehicles credit.

HELP GIVEN TO LAID-OFF WORKERS

Although much of ARRA focuses on working Americans, it also provides some tax relief for laid-off workers. For 2009, the Act suspends federal income tax on the first \$2,400 of unemployment benefits per recipient.

TAKE FULL ADVANTAGE

ARRA may significantly affect your tax liability in a variety of ways. More information about AARA can be found on our website at http://www.taxguideonline.com/cowanguteski/pages/whats_new/index.php.

If you would like discuss your particular situation and how you might benefit from this new tax law, please give us a call at 732-349-6880 in Toms River or 732-741-2624 in Shrewsbury. We would be glad to help you determine how ARRA could affect your tax liability — and what you should do to take full advantage of the Act.

Best regards,

Cowan, Guteski & Co., P.A.