



## Provisions in the American Recovery and Reinvestment Act for Contractors



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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. The American Recovery and Reinvestment Act (ARRA) of 2009 was designed 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. With an abundance of information circulating about the ARRA how do you know which provisions affect you or your business? As with most large tax acts, the provisions vary widely and affect many different types of taxpayers. The following provisions may have the greatest impact on contractors:

**REDUCED ESTIMATED TAX PAYMENT REQUIREMENTS** – For 2009, ARRA reduces the estimated tax payment requirements for many small business owners. Contractors 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.

**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.

**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.

**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.

Under the new law, the tax credit for energy-saving home improvements is raised to 30% and is extended through 2010. The lifetime cap of \$500 is eliminated and has been replaced with a single aggregate amount of \$1,500 for improvements on all qualifying properties for 2009 and 2010.

**DISCHARGE OF INDEBTEDNESS** – Under the new law, certain companies that buy back their qualifying debt at a discount in 2009 and 2010 will be allowed to defer taxes until 2014 and then recognize the deferred debt in income ratably over the next five years.

**MAKING WORK PAY CREDIT** – Under this provision, wage earners and the self-employed are permitted to claim a credit equal to the lesser of 6.2% of earned income or up to \$400 a year for single filers (\$800 a year for married couples) in 2009 and 2010. However, the credit phases out at a 2% rate for taxpayers with adjusted gross income (AGI) over \$75,000 for singles and \$150,000 for married couples filing jointly. Rather than sending out these rebates in the form of checks, workers may adjust the amount withheld from each paycheck or claim the sum when filing their taxes.

**RELIEF FOR THE UNEMPLOYED** – Generally, unemployment benefits are considered taxable income. For 2009 only, the new law allows recipients to exclude from taxable income the first \$2,400 in unemployment benefits.

The new law also subsidizes the cost of health care coverage provided under COBRA, which allows individuals to remain enrolled in their company health plan for a period of time after leaving a job. Under the new law, workers who are involuntarily separated from employment between September 1, 2008, and January 1, 2010 are given the option of paying just 35% of the cost of COBRA coverage for up to nine months. The former employer will be required to pay the remaining 65%, but will be reimbursed by the government.

ARRA may significantly affect your tax liability in a variety of ways. There are numerous other tax provisions for business and individual tax payers. More information in this legislation can be found at [www.cowangunteski.com](http://www.cowangunteski.com).

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*The technical information in this article is necessarily brief. No final conclusion on these topics should be drawn without further review and consultation. Please be advised that, based on current IRS rules and standards, the advice contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty assessed by the IRS.*

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