

The GIBSON&PERKINS Tax Letter

CIRCULATED TO TAX ADVISORS AND CLIENTS

November 17, 2009

WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT OF 2009

On November 6, 2009, the President signed the Worker, Homeownership, and Business Assistance Act of 2009 into law. The new law is summarized below.

INDIVIDUAL INCENTIVES

Unemployment Insurance Extension

Given the state of the nations beleaguered job market, Congress and the President opted to extend unemployment insurance benefits for an additional fourteen weeks. The Act provides a further six weeks of benefits to workers in states suffering from unemployment levels over 8.5%.

First Time Homebuyer Credit Extensions

The 2009 WHBAA mandates several extensions to the credits provided to first time home buyers authorized by the American Recovery and Reinvestment Act of 2009. The first time homebuyer credit was set to expire on November 30, 2009 under the 2009 ARRA. This new law extends the expiration date to April 30, 2010. Moreover if a taxpayer becomes a party to a binding contract before May 1, 2010 to close on the purchase of a primary residence before July 1, 2010, the credit will apply. The 2009 WHBAA also provides a maximum credit of \$8,000, as opposed to the former \$7,500 credit.

Under the 2009 ARRA the first time homebuyer's credit was phased out for singles with a \$75,000 to \$95,000 modified adjusted gross income (MAGI), and joint filing married couples with MAGI between \$150,000 and \$170,000. The new law raises these amounts considerably to between \$125,000 and \$145,000 for singles and between \$225,000 and \$245,000 for couples. The newly passed legislation also eliminates the repayment of the credit for homes purchased in 2009 and 2010, provided the taxpayer maintains the property as their primary residence for at least 36 months from the purchase.

Extensions for Non-First Time Buyers

The 2009 WHBAA expands credits to taxpayers who are not purchasing their first home. Taxpayers who have maintained their previous residence for any five consecutive year period within the past eight years, and purchase a new home after November 6, 2009, are now eligible for a \$6,500 credit. This new provision aims to assist taxpayers who are moving from their first home to a larger, more expensive residence; as well as seniors moving to more manageable homes.

Exceptions

Individuals or families purchasing residences in excess of \$800,000 after November 6, 2009 are ineligible to receive either the first time homeowner credit or the newly added long time resident credit. Those who can be claimed as a dependant of another taxpayer during the tax year the claim is made are also ineligible. Finally the taxpayer or their spouse must be at least 18 for eligibility.

Advantages for Service Members

With the passage of the 2009 WHBAA military personnel, Foreign Service, and Intelligence Community members, who serve an assignment outside the US for at least ninety days in 2009 or before May 1, 2010, qualify for an extension of the homebuyers tax credit. These individuals and their families have until May 1, 2011 to purchase a home and until July 1, 2011 to close on the agreement. Decades ago, Congress enacted the Housing Assistance Program (HAP) to compensate military families for loss in home value due to base closures. Under the 2009 WHBAA all eligible HAP payments are now tax-exempt.

BUSINESS INCENTIVES

The passage of the 2009 WHBAA includes tax provisions advantageous to business interests. The 2009 ARRA allowed small businesses, averaging gross receipts of \$15 million or less, to carry back net operating losses (NOLs) from 2008 for periods of three, four or five years, an extension from the standard two years. Under the 2009 WHBAA businesses of any size can enjoy a similar advantage. The new law allows all businesses to carry back NOLs for up to five years. However, there is an income limit on NOL offsets of fifty percent during the fifth year. This fifty percent limitation does not apply to small business that elected to carry back 2008 NOLs.

Regards,



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