

TAX ZONING

"Tax News & ITZ Views that You Can Use"



TAX SEASON 2009

The Government gives you Credit on your Taxes, but not your Bank, Wuz-up with that?

The Government has instituted a myriad of tax credits that may be helpful for 2009. Let's find out more about two of such tax credits – "Making Work Pay Credit" and "First-Time Homebuyer Credit".

MAKING WORK PAY CREDIT

If you have "earned income" [wages reported on Form W -2] you may be eligible for the Making Work Pay Credit, which is 6.2% of earned income to the limit of \$400 [\$800 maximum for joint returns]. The credit is wiped out for modified adjusted gross income exceeding \$75,000 [\$150,000 MAGI for joint returns].

FIRST-TIME HOMEBUYER CREDIT

You must buy your **main home** in the U.S. between January 2008 and April 30, 2010, if you are in a binding contract before May 1, 2010 the time is extended to June 30, 2010. To qualify as a "first-time homebuyer" you must not have owned a main home during the three year period ending on the date of purchase of the new main home. The First-Time Homebuyer Credit is the **smaller** of \$8,000 or 10% of the purchase price of the home. The First-Time Homebuyer Credit has strict provisions, limitations, restrictions, and repayment requirements, so ensure that you discuss all aspects of the First-Time Homebuyer Credit with your Tax Advisor before proceeding.

Also a credit of up to \$6,500 is available to folks who do not qualify as "first-timers", but are "long-time residents of the same home". Again, ensure you check the provisions, limitations, restrictions and repayment requirements with your Tax Advisor.

Selling your home within 36 months of purchase or converting it to business [THIS MAY INCLUDE OFFICE IN THE HOME OR BUSINESS USE OF THE HOME] may trigger repayment provisions, so don't take these tax credits lightly.

Unemployment is no joke, so don't laugh at this Tax Break

For 2009 up to \$2,400 of unemployment benefits received is generally exempt from income taxes. The \$2,400 exempt applies to each unemployment benefits recipient.

New Automobile? New tax break!!

If you bought a new motor vehicle after February 16, 2009 the state or local sales tax, excise taxes, and certain fees may be deductible on your tax return even for those who do not itemize deductions. The "Cash for Clunkers" rebate received in 2009 is not taxable.

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Mortgage Cancellation may not hurt as much.

If your mortgage company cancels or forgives any part of your mortgage debt that amount may be taxable. The Mortgage Forgiveness Debt Relief Act of 2007 lets affected Taxpayers exclude from taxation the amount of debt discharged or restructured on qualified principal residence indebtedness incurred after 2006 and before 2013. As you would expect these provisions are very restrictive and apply only to discharge of indebted that is secured by your principal residence [so investment properties do not qualify].

A better “Alternative”, maybe, but not much better.

The Alternative Minimum Tax (AMT) exemption amount is increased for Tax Year 2009 to \$46,700 [Single] and \$70,950 (Married Filing Jointly). While the increased limits help a large group of Taxpayers avoid paying higher taxes [Thank You], there are still too many middle-class Taxpayers who are getting zonked” by the AMT. Let me explain.

The Alternative Minimum Tax (AMT) was initiated to target those high-income taxpayers who could claim so many deductions that they paid little or no income tax [A Good Idea]. The AMT is calculated after the regular income tax is determined. Essentially AMT takes back certain deductions to see what the income tax would be without such deductions. The taxpayer pays the higher of the AMT or the regular tax. Unfortunately the impact of the AMT has been growing to the extent that significant numbers of middle-income taxpayers [you and me] are subject to paying higher income taxes [A Good Idea Gone Bad].

Congress has known all along that the AMT needed to be fixed because middle-income taxpayers were never the AMT’s target population; but the AMT annually generates significant tax revenue [so Congress took its time]. We believe the AMT disparity is being addressed this year as it was late last year because of the poor economy and, of course, election year politics.

FICA Tax and Self-Employment Tax

The Social Security tax on employees remains at 7.65% of wages. The maximum wages subject to the FICA tax portion [6.2%] is \$106,800.00 for 2009 and 2010 [maximum of \$6,621.60 from employee withholding]. There is **no limit** on the Medicare portion [1.45%]. The employer matches the employee’s withholding. Self-employment taxes are subject to the same earnings amounts and tax percentages.

Standard Mileage Rates increase, finally.

For 2009 the Standard Mileage Rates for business mileage is calculated at 55 cents per mile. Mileage is 24 cents per mile for medical purposes [like trips to the doctor or dentist, plus the cost of parking at the doctor’s office or hospital] and moving expenses, and for charity purposes the rate is 14 cents per mile. For 2010 the Standard Mileage Rate for business is 50 cent, the other rates remain the same.

ROTH IRA Contribution Income Limits

Contributions to a ROTH IRA are restricted based on income. For 2009 a contribution to a ROTH IRA **can not** be made by single filers with modified adjusted gross income of \$120,000 or joint filers with MAGI of \$176,000.

IRS and States increase Scrutiny of Using Independent Contractors

The Tax Authorities are aggressively pursuing audits of small businesses that use Independent Contractors with the specific intent of re-classifying contractors as employees to make the employer responsible for paying social security, Medicare, and unemployment taxes. The IRS has a new tool - Form 8919, Uncollected Social Security and Medicare Tax on Wages - that encourages folks who were paid as independent contractors but feel they were employees to voluntarily report to the IRS. So with this form IRS no longer has to select your company's return to trigger an audit it can now go directly to your company based on the information on Form 8919 [scary isn't it].

Most businesses use contractors or consultants to some degree. We believed that complying with the IRS guidelines [which essentially provides that the difference between an employee and a contractor depends on the business' right to control the worker in key areas] was sufficient to verify the contractor vs. the employee classification.

Well, it isn't that clear-cut anymore. IRS recently issued provisions that seem to refine their criteria with such distinctions as – Whether the contractor was previously treated as an employee by the business and is performing similar services under similar circumstances, or Whether other workers classified as employees are performing services similar to the services provided by the contractor.

But closer to home, the employee vs. independent contractor criteria really hasn't been clear-cut whenever State laws are involved. States have criteria for determining independent contractor status that differs materially from the IRS guidelines. We found out the hard way that even if a business is adhering to the IRS guidelines the State can make a case for determining that a contractor [properly classified as such under the IRS guidelines] is an employee for State unemployment purposes. States are increasing compliance in this area and are providing heavy audit coverage in industries where use of contractors has been traditionally prominent. The State provisions are not common knowledge, as are the IRS guidelines, and have to be researched because the States do not actively publicize their criteria. Tax professionals and business owners must be aware of the State provisions to ensure compliance.

Paramount, is that the burden of documenting that a worker is an independent contractor is solely that of the business [neither the State or the worker has that responsibility]; so let's talk about what documentation the business should request from the potential contractor and retain as part of the business' personnel record system.

As part of the consideration process obtain indicia that the contractor is in business for themselves –

- ◆ Contract or proposal from the contractor on their letterhead detailing services, rates, time and duration. If the appropriate language regarding such vital matters as independence, income taxes and insurance are not in their contract, do an addendum to their contract or proposal or ask that the contractor modify the contract to include such language.
- ◆ Copy of Contractor's business card and a capability statement if they have one.
- ◆ A list of references for whom the contractors works or has worked.

As part of the compensation portion –

- ◆ Have the Contractor submit their time and billing reporting their invoice and letterhead. Many businesses make the mistake of requiring the Contractor to use the Company's internal forms.
- ◆ If the Company has a referred reporting format, ask the Contractor to report incorporating that format into their invoice.

Tax Tip: **Protect Your Business. Remember, the burden of proving a Contractor relationship is on the business, so obtain as much data from potential Contractors as you deem necessary to support your classification. State audits normally look back two or three years, so ask existing and previous Contractors to provide appropriate documentation. Maintain a Vendor file for each Contractor.**

IRS proposes to finally begin protecting Taxpayers from unscrupulous Tax Preparers!

The IRS is proposing strict rules to require licensing, testing, continuing education, ethical standards, and other compliance measures for all Tax Preparers. We applaud these recommendations and welcome the scrutiny.

Our Tax Principals have been licensed by the Department of the Treasury to practice and represent before IRS and the states. We stay abreast of the tax laws by taking tax and accounting classes, and doing research for our extensive speaking, teaching and writing portfolios. We deal with IRS everyday to represent businesses and individuals nationwide in resolving audit and collection matters.

In our 23 years in business only 5 of the many thousands of business, individual, tax exempt and fiduciary returns we have done have been audited. Our tax representation work comes from the tax returns that were prepared by those “*other folks*”. Enough said!!

The IRS has become really strict with Tax Professionals who produce tax returns where the existence of reasonable basis for deductions on the return can not be verified. Essentially, a Tax Preparer must now go beyond the traditional standard of preparing an accurate return, to additionally verifying that the tax deductions have a reasonable basis. While these expanded restrictions are aimed at those who prepare frivolous tax returns, they impact all Tax Preparers.

As an example, in the past where a taxpayer would say their business mileage was “the same as last year”, we would look at the previous year’s return, advise the taxpayer of the mileage, and get confirmation that the mileage number is valid for the current year. But, no longer, with the enhanced Tax Preparer provisions the taxpayer will have to provide documentation which allows the Tax Preparer to substantiate that a reasonable basis exists for mileage calculation and deduction.

Tax Tip: Our policy in **The Tax Zone** ➤ [which began in the 2007 Tax Season] is to respectfully decline to prepare a tax return where the Taxpayer does not provide sufficient documentation that allows us to substantiate that a reasonable basis exists for taking such tax deductions.

We want to keep our tax clients happy, but it is imperative that we retain the trust and respect of the hundreds of businesses and individuals for whom we have fiduciary responsibility as Tax Preparers and Tax Advisors.

We know that you understand and appreciate **The Tax Zone ➤ position.**

Just ask Uncle Sam and he’ll automatically give you 6 Months

Many Taxpayers file an extension with the federal and state to get more time to file their returns. Now Form 4868 provides an automatic 6-month extension, which for calendar year filers extends from April 15th 2008 to October 15th. 2008. Most states also are following this format.

Tax Tip: Remember, an extension of time to file your return DOES NOT extend the time to pay your taxes due. So calculate any tax liability to the federal and state and pay that amount along with the extension you file. If you don’t timely and fully pay your tax liabilities you may incur additional penalties and interest.

It's a free-bee, so try it at least once...

If you do not have complex tax matters consider trying to prepare your tax return yourself. Go to www.irs.gov and look in the center portion for "Use Free File to Prepare and File Your Taxes". Double click on "e-file" for a full explanation of available free-filing options. Even if you do not qualify for the free filing, the participating companies may have lower fees than commercial tax services, so take a good look.

Tax You have several tax filing options, so consider filing using IRS "free file" or "e-file" services; Or do your own taxes on your own computer with software available on the Internet or purchased at an office supply store. Many commercial tax software have free preparation for simple returns like Form 1040-EZ and low fees for other returns, so explore what's available to you.

Tip:

We want to keep you as a Tax Client,
but if you can file your returns at no cost or at reduced cost –
We Are All For That!

**The IRS "free file" and "e-file" services and
The commercial tax software offerings are for Taxpayers who:
Have a simple return,
Do not have tax considerations that may require tax advice, or
Do Not have any material involvement with any tax authority.**

**You folks who have
complex taxes, or
need tax advice, planning, or representation
should stay In The Zone.**

SOME FOLKS CAN GET BURNED, ELECTRONICALLY

Filing your tax returns electronically can be beneficial, as it facilitates IRS processing and speeds refunds. But many of you should talk with us before hitting that "Enter" button. *[You know who you are, don't you?]*

BE TAX SMART

FAST is not the same as FULL - DO NOT Believe the Hype

In The Zone we strongly recommend that

FILERS NOT OBTAIN FAST-REFUNDS OR REFUND-LOANS.

The Tax Zone > **does not provide Refund Anticipation Loans
and
You should not want one.**

At tax-time these loan vehicles are advertised as “Rapid Refunds”, “Fast-Tax Refunds”, “Instant Cash” and every possible variation on that theme that the advertising companies can dream-up.

In one of these commercials folks are walking away with their “instant refunds, saying, “I’ve got people” [Yeah, right]. If these schemes and marketing plans insult your intelligence you already know the reasons why!!!

Please don’t be fooled! You may get your money a bit faster, but you will not get your total refund amount!

Consider that processing fees, interest charges, and other “costs” are deducted from your refund amount up-front and you’ll see that the cost you are paying to get your money days sooner is very, very high.

Instead of a quick refund of your tax dollars, you end up [after fees and interest] with an amount that may be significantly less than your refund amount

If you need your tax refund really badly – FILE EARLY.

The Tax Zone > **will help you adjust your wage withholding for 2010, so that
you’ll have the use of that money every payday, instead of waiting for a refund.**