

Tax Analysis ARRA



Making Work Pay Credit



- Refundable Tax Credit
 - up to \$400 /individual
 - up to \$800 /family
- This tax credit is calculated at a rate of 6.2% of earned income, and phases out for taxpayers with adjusted gross income (AGI) in excess of \$75,000 (\$150,000 for married couples filing jointly).
- May claim credit on returns or reduce withheld

(H.R. 1-192, Title 1, §1001); Congress, 2009

Increase in Earned Income Tax (EITC)



- Temporary increase of EITC for families with 3+ children
- Increases to forty-five percent (45%) of the family's first \$12,570
- Increases the beginning point of the phase-out range for all married couples filing a joint return (regardless of the number of children) by \$1,880

(H.R. 1-192, Title 1, §1002); Congress, 2009

Temporary Suspension of Taxation of Unemployment Benefits



- For the taxable year 2009, federal income taxation on the first \$2,400 of unemployment benefits per recipient is suspended
- Any benefits over \$2,400 will be subject to federal income tax

(H.R. 1-192, Title 1, §1007); Congress, 2009

Increased Eligibility for the Refundable Portion of Child Credit



- For 2009 and 2010, the child tax credit is refundable to the extent of 15 percent of the taxpayer's earned income in excess of \$3,000 (previously \$8,500)

(H.R. 1-192, Title 1, §1003); Congress, 2009

Labels: individual, family, children, eligibility change

Recovery Payments



Economic Recovery **Payment to Recipients of Social Security, SSI, Railroad Retirement and Veterans Disability Compensation Benefits**

Refundable **Credit for Certain Federal and State Pensioners**

- to certain government retirees who are not eligible for Social Security benefits.

- (for both)
- \$250 one-time payment
- Reduction to any Making Work Pay credit

(H.R. 1-192, Title 2, §§2201-2202); Congress, 2009

Labels: individual, veteran, retired

American Opportunity Tax Credit



- For **2009 and 2010**, **credit** up to **\$2,500** of the cost of tuition and related expenses paid during the taxable year
- Tax credit based on 100% of the first \$2,000 of tuition and related expenses (including books) paid during the taxable year
- 25% of the next \$2,000 of tuition and related expenses
- 40% of the credit would be **refundable**.
- Phase-out for taxpayers with adjusted gross income in excess of \$80,000 (\$160,000 for married couples filing jointly)

(H.R. 1-192, Title 1, §1004); Congress, 2009

Labels: individual, family, children, education

Computers as Qualified Education Expenses in 529 Education Plans



- Section 529 Education Plans are tax-advantaged savings plans that cover all qualified education expenses, including: tuition, room & board, mandatory fees and books.
- Computers and computer technology now qualify as qualified education expenses

(H.R. 1-192, Title 1, §1005); Congress, 2009

Refundable First-time Home Buyer Credit



- Taxpayers that purchase homes after January 1, 2009 and before December 1, 2009 are **no longer required to payback** the refundable tax credit offered to first time homebuyers (provided the house is not sold within 3 years of purchase)
- Maximum value of the credit increased to **\$8,000**
- Prohibition on financing by mortgage revenue bonds has been removed

(H.R. 1-192, Title 1, §1006); Congress, 2009

Sales Tax Deduction for Vehicle Purchases



- Taxpayers may deduct state and local sales and excise taxes
 - paid on the portion below \$50,000 of the purchase price of new cars, light truck, recreational vehicles, and motorcycles
- Phase-out for taxpayers with adjusted gross income in excess of \$125,000 (\$250,000 in the case of a joint return)
- For 2009 purchases

(H.R. 1-192, Title 1, §1008); Congress, 2009

Extension of Alternative Minimum Tax (AMT) Relief for 2009



- The AMT exemption amount has been raised
 - to \$70,950 for joint filers
 - to \$46,700 for individuals
- AMT relief for nonrefundable personal credits has likewise been extended

(H.R. 1-192, Title 1, §§1011-1012); Congress, 2009

Nonbusiness and residential property



- Extends tax credits for improvements to energy-efficient existing homes through 2010
- For 2009 and 2010, the the amount of the tax credit is thirty percent (30%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year
- Property-by-property dollar caps are removed on this tax credit
- Aggregate \$1,500 cap on all property qualifying for the credit
- Energy-efficiency standards of the property qualifying for the credit are updated

(H.R. 1-192, Title 1, §§1121-1122); Congress, 2009

Build America Bonds



- Tax Credit Bond Option for State and Local Governments
- Tax credit bonds differ from tax-exempt bonds in two principal ways:
 - (1) interest paid on tax credit bonds is taxable; and
 - (2) a portion of the interest paid on tax credit bonds takes the form of a Federal tax credit.
 - ✦ The Federal tax credit offsets a portion of the cash interest payment that the State or local government would otherwise need to make on the borrowing
 - ✦ For **2009 and 2010**, the bill would provide State and local governments with the option of issuing a tax credit bond instead of a tax-exempt governmental obligation bond
 - ✦ Allows government to elect to receive a **direct payment** from the Federal government equal to the subsidy that would have otherwise been delivered through the Federal tax credit for bonds

(H.R. 1-192, Title 1, §1531); Congress, 2009

Clean Renewable Energy Bonds (CREBs)



- Additional 1.6 billion for bonds
- In thirds:
 - qualifying projects of State/local/tribal governments
 - qualifying projects of public power providers
 - qualifying projects of electric cooperatives.
- To finance facilities for renewable energy (next slide)

(H.R. 1-192, Title 1, §1111); Congress, 2009

Clean Renewable Energy Bonds (CREBs)



- wind
- closed-loop biomass
- open-loop biomass
- geothermal
- small irrigation
- qualified hydropower
- landfill gas
- marine renewables
- trash combustion

(H.R. 1-192, Title 1, §1111); Congress, 2009

Qualified Energy Conservation Bonds



- Additional 2.4 billion of tax credit bonds
- To finance State and local government initiatives designed to reduce greenhouse emissions
- National limit 800 million

(H.R. 1-192, Title 1, §1112); Congress, 2009

Recovery Zone Bonds



- New category of tax credit bonds for investment in economic recovery zones
- Bonds can be issued during 2009 and 2010
- Each state receives share of the national allocation based on that state's job losses in 2008 as a percentage of national job losses in 2008, allocations sub-allocated to local municipalities
- Municipalities receiving allocation bonds may use them to invest in infrastructure, job training, education, and economic development in areas within the city that has significant poverty, unemployment or home foreclosures.

(H.R. 1-192, Title 1, §1401); Congress, 2009

Industrial Development Bonds



- Current: certain manufacturing facilities are eligible for tax exempt bond financing
- The definition of manufacturing facility has been amended to any facility used in the manufacturing, creation, or production of tangible or **intangible** property described in section 197(d)(1)(C)(iii)
 - Intangible property is any patent, copyright, formula, process, design, pattern, knowhow, format, etc.
 - ARRA clarifies which physical components of a manufacturing facility qualify as "ancillary" and therefore are subjected to a 25% limitation in the amount of bond issuance used to build or re-construct those components
- Special provision for 2009 & 2010 is inclusion of intangibles

(H.R. 1-192, Title 1, §1301); Congress, 2009

Tribal Economic Development Bonds



- **Current: tribal governments limited in their ability to issue tax-exempt bonds**
 - Projects funded by bonds issued by tribal governments must satisfy an “essential governmental function” requirement
 - Requirement not imposed on projects funded by bonds issued by State and local governments
- **Tribal governments temporarily allowed to issue bonds for projects without this restriction in order to spur economic development on tribal lands**
- **Secretary of the Treasury to study whether this restriction should be repealed on a permanent basis**

(H.R. 1-192, Title 1, §1402); Congress, 2009

New Markets Tax Credit



- The credits for 2008 and 2009 have been increased
- For 2008, can get more if entity did not receive allocation or received less than request in 2008
- New Markets Tax Credit:
 - 1. Investors invest in privately managed investment institutions
 - 2. These privately managed investment institutions, or Community Development Entities (CDEs), make loans and capital investments in businesses in underserved areas
 - 3. By making an investment in a CDE, an individual or corporate investor can receive a tax credit worth 39 percent (30 percent net present value) of the initial investment, distributed over 7 years, along with any anticipated return on their investment in the CDE

(H.R. 1-192, Title 1, §1403); Congress, 2009

Modification to high speed intercity rail facility bonds



- **Currently: States may issue private activity bonds for high-speed rail facilities**
 - a high-speed rail facility is a facility for the transportation of passengers between metropolitan areas using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops
- **Bonds can now be used to develop rail facilities that are used by trains that are capable of attaining speeds in excess of 150 miles per hour**
- **Wording change: “operate at speeds in excess of” to “be capable of attaining a maximum speed in excess of”**

(H.R. 1-192, Title 1, §1504); Congress, 2009

Temporary Modification of AMT limitations on tax-exempt bonds



- The alternative minimum tax (AMT) can increase the costs of issuing tax-exempt private activity bonds imposed on State and local governments
- Forces state and local governments to issue these bonds at higher interest rates
- Private activity bonds are excluded from the AMT if the bond is issued in 2009 or 2010
- AMT relief for current refunding of private activity bonds issued after 2003 and refunded during 2009 and 2010

(H.R. 1-192, Title 1, §1503); Congress, 2009

Allowance for property acquired during 2009



- Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States
- Temporary benefit for capital expenditures extends to those incurred in 2009

(H.R. 1-192, Title 1, §1201); Congress, 2009

Allowance for 2009 (cont'd)



- Last year, Congress temporarily allowed businesses to accelerate the recognition of a portion of their historic AMT or research and development (R&D) credits in lieu of bonus depreciation
- The amount that taxpayers may accelerate is calculated based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation
- Temporary benefit extended through 2009

(H.R. 1-192, Title 1, §1201); Congress, 2009

Extension of Enhanced Small Business Expensing



- Small business taxpayers may elect to write-off expenses in the year of acquisition in lieu of recovering these costs over time through depreciation
- Until the end of 2010, small business taxpayers are allowed to write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed \$500,000 (indexed for inflation)
- In 2008, the amount that small businesses could write-off for capital expenditures incurred in 2008 increased to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. These temporary increases now apply for capital expenditures incurred in 2009

(H.R. 1-192, Title 1, §1202); Congress, 2009

5-Year Carryback of Operating Losses



- Current: Net operating losses (“NOLs”) may be carried back to the two taxable years before the year that the loss arises (the “NOL carryback period”) and carried forward to each of the succeeding twenty taxable years after the year that the loss arises
- For 2008, maximum NOL carryback period is five years for small businesses with gross receipts of \$15 million or less

(H.R. 1-192, Title 1, §1211); Congress, 2009

Incentives to hire unemployed veterans and disconnected youth



- **Current:** businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first \$6,000 of wages paid to employees of one of nine targeted groups
- **New targeted groups of prospective employees:**
 - (1) unemployed veterans - if they were discharged or released from active duty from the Armed Forces during the five-year period prior to hiring and received unemployment compensation for more than four weeks during the year before being hired
 - (2) disconnected youth - if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months

(H.R. 1-192, Title 1, §1221); Congress, 2009

Investment credit in lieu of production credit



- Facilities claim the investment tax credit in lieu of the production tax credit
- 30% investment tax credit in the year that the facility is placed in service
- Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible

(H.R. 1-192, Title 1, §1102); Congress, 2009

Treasury Department Energy Grants in Lieu of Tax Credits



- Coordinates tax provisions with Department of Treasury grants
- Current: Tax credits available (§1102)
- Allows taxpayers to receive a grant from the Treasury Department in lieu of tax credits
- Operates like the current-law investment tax credit.
- The Treasury Department will issue a grant in an amount equal to thirty percent (30%) of the cost of the renewable energy facility within 60 days of the facility being placed in service or, if later, within 60 days of receiving an application for such grant.

(H.R. 1-192, Title 1, §1104); Congress, 2009

Long-term Extension and Modification of Renewable Energy Production Tax Credit



- The renewable energy production tax credit has been modified and extended
- Extends the placed-in-service date for wind facilities through December 31, 2012, and for certain other qualifying facilities through December 31, 2013
 - Closed-loop biomass
 - Open-loop biomass
 - Geothermal
 - Small irrigation
 - Hydropower
 - Landfill gas
 - Waste-to-energy
 - Marine renewable facilities

(H.R. 1-192, Title 1, §1101); Congress, 2009

Repeal of Certain Limitations on Credit for Renewable Energy Property



- **Current:** tax credits for renewable energy for businesses have dollar caps for small wind, geothermal, and solar water heating property
- The caps are removed and credit is for 30%
- **Current:** the investment tax credit must be reduced if the property qualifying for the investment tax credit is also financed with industrial development bonds or through any other Federal, State, or local subsidized financing program
- ARRA repeals subsidized energy financing limitation on the investment tax credit
 - Allows businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing.

(H.R. 1-192, Title 1, §1103); Congress, 2009

Increase in Tax Credits for Alternative Refueling Property



- Credit to businesses (e.g., gas stations) that install alternative fuel pumps
 - E85 fuel, electricity, hydrogen, and natural gas
- For 2009 and 2010, alternative refueling property credit for businesses (capped at \$30,000) increases to 50% (capped at \$50,000)
- Hydrogen refueling pumps remain at a 30% credit percentage; however, the cap for hydrogen refueling pumps will be increased to \$200,000
- 30% alternative refueling property credit for individuals (capped at \$1,000) to 50% (capped at \$2,000).

(H.R. 1-192, Title 1, §1123); Congress, 2009

Plug-In Electric Drive Vehicles



- Modifies and increases the tax credit for each qualified plug-in electric drive vehicle placed in service during the taxable year
- Base amount of the credit is \$2,500
- If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit is increased by \$417, plus another \$417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 16 kilowatt hours
- Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter in which the manufacturer records its 200,000th sale of a plug-in electric drive vehicle
- Credit is reduced in following calendar quarters. The credit is allowed against the alternative minimum tax (AMT)
- ARRA restores and updates the electric vehicle credit for plug-in electric vehicles that would not otherwise qualify for the larger plug-in electric drive vehicle credit and provides a tax credit for plug-in electric drive conversion kits.

(H.R. 1-192, Title 1, §§1141-1144); Congress, 2009

Parity for Transportation Benefits



- **Current:** tax-free fringe benefit employers can provide to employees for transit and parking. Benefits are set at different dollar amounts
- Tax-free benefits for transit and parking are now equalized
- Parking and transit benefits at \$230 a month for 2009, indexes them equally for 2010
- Bill clarifies that certain transit benefits apply to federal employees

(H.R. 1-192, Title 1, §1151); Congress, 2009

De Minimis Safe Harbor Exception for **Tax-Exempt Interest Expense** for Financial Institutions



- Current: financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds
- In determining the portion of interest expense that is allocable to investments in tax-exempt municipal bonds, exclude:
 - investments in tax-exempt municipal bonds issued during 2009 and 2010
 - to the extent that these investments constitute less than two percent (2%) of the average adjusted bases of all the assets of the financial institution

(H.R. 1-192, Title 1, §1501); Congress, 2009

Modification of Small Issuer Exception to **Tax-Exempt Interest Expense** Allocation Rules for Financial Institution



- Increases dollar threshold to \$30,000,000 for small issuer exception
- When determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies
- The small issuer exception applies to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception
 - e.g. the issuer of a qualified 501(c)(3) bond shall be deemed to be the ultimate borrower on whose behalf a bond was issued

(H.R. 1-192, Title 1, §1502); Congress, 2009

Extension and Increase in Authorization for Qualified Zone Academy Bonds (QZABs)



- Additional \$1.4 billion of QZAB issuing authority to State and local governments in 2009 and 2010, which can be used to:
 - finance renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy
- Qualified zone academy:
 - Any public school (or academic program within a public school) below college level
 - Located in an empowerment zone or enterprise community
 - Designed to cooperate with businesses to enhance the academic curriculum and increase graduation and employment rates
- QZABs are a form of tax credit bonds which offer the holder a Federal tax credit instead of interest

(H.R. 1-192, Title 1, §1522); Congress, 2009

Qualified School Construction Bonds



- New category of tax credit bonds for:
 - Construction of public school facilities
 - Rehabilitation of public school facilities
 - Repair of public school facilities
 - Acquisition of land on which a public school facility will be constructed
- National limit of \$22 billion (\$11 billion allocated initially in 2009 and the remainder allocated in 2010).
- National limit on the amount of qualified school construction bonds that may be issued by Indian tribal governments of \$400 million (\$200 million allocated initially in 2009 and the remainder allocated in 2010)

(H.R. 1-192, Title 1, §1521); Congress, 2009

Delayed Recognition of Certain Cancellation of Debt Income



- Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income (“CODI”) is the **excess** of the old debt’s adjusted issue price over the repurchase price
- Certain businesses may recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011

(H.R. 1-192, Title 1, §1231); Congress, 2009

Rules for Small Business Stock



- Current: Section 1202 provides a fifty percent (50%) exclusion for the gain from the sale of certain small business stock held for more than five years. The amount of gain eligible for the exclusion is limited
- This provision is limited to individual investments and not the investments of a corporation. The non-excluded portion of section 1202 gain is taxed at the lesser of ordinary income rates or 28 percent, instead of the lower capital gains rates for individuals
- The provision allows a seventy-five percent (75%) exclusion for individuals on the gain from the sale of certain small business stock held for more than five years.
- This change is for stock issued after the date of enactment and before January 1, 2011.

(H.R. 1-192, Title 1, §1241); Congress, 2009

Temporary Reduction of S Corporation Built-In Gains Holding Period from 10 Years to 7 Years



- **Current:** If a taxable corporation converts into an S corporation, the conversion is not a taxable event. However, following such a conversion, an S corporation must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion.
- This holding period is reduced from ten years to seven years for sales occurring in 2009 and 2010.

(H.R. 1-192, Title 1, §1251); Congress, 2009

Reduces tax for small businesses



- Special rules
- Small businesses

(H.R. 1-192, Title 1, §1212); Congress, 2009

Ownership Changes



- **Repeal of Treasury Section 382 Notice**
 - Notice 2008-83 liberalized rules in the tax code that are intended to prevent taxpayers that acquire companies from claiming losses that were incurred by the acquired company prior to the taxpayer's ownership of the company
- **The application of section 382 is clarified to certain companies restructuring pursuant to the Emergency Economic Stabilization Act of 2008**

(H.R. 1-192, Title 1, §§1261-1262); Congress, 2009

Advanced Energy Investment Credit



- New 30% investment tax credit for facilities engaged in the manufacture of advanced energy property
- Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process
- Advanced energy property includes technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration.

(H.R. 1-192, Title 1, §1302); Congress, 2009

Delay Application of Withholding Requirement on Certain Governmental Payments for Goods and Services



- For payments made after December 31, 2010, the Code requires withholding at a three percent rate on certain payments to persons providing property or services made by Federal, State, and local governments
- The ARRA delays for one year (through December 31, 2011) the application of the three percent withholding requirement on government payments for goods and services in order to provide time for the Treasury Department to study the impact of this provision on government entities and other taxpayers

(H.R. 1-192, Title 1, §1511); Congress, 2009

Treasury Department Low-Income Housing Grants in Lieu of Tax Credits



- Current: taxpayers are allowed to claim a low-income housing tax credit for certain investments made in low-income housing
- Taxpayers may receive a grant from the Treasury Department in lieu of tax credits
 - States housing agencies would receive a grant equal to up to eighty-five percent (85%) of forty percent (40%) of the state's low-income housing tax credit allocation in lieu of the low-income housing tax credits they would have received
 - The subawards are subject to the same requirements (including rent, income, and use restrictions on such buildings) as the low-income housing tax credit allocations. The grant program applies to each state's 2009 low-income housing tax credit allocation

(H.R. 1-192, Title 1, §1404); Congress, 2009