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Last-Minute 2009 Filing Season Tax Tips

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During discussions with lawyers who have engaged our tax, accounting or litigation consulting services in connection with their client matters, more often than not a personal tax question or two is splashed within. Lately, the splashes have turned into a tidal wave. Being that time of year and as a result of discussions with our lawyer clients, we thought it would be helpful to provide a listing of last-minute tax tips for young and emerging lawyers as well as seasoned lawyers and judges.

With nine tax acts in the last two years and more than 1,500 tax changes, unique tax savings exist for many individuals and businesses. Combined with the tried-and-true tax strategies, 2009 tax preparation will be challenging and rewarding at best, or at worst, challenging and costly. The following "quick-strike" federal recommendations may benefit both last-minute filers and taxpayers filing extensions. Included are both new and often-overlooked deductions and credits for individuals and businesses and other related tax tips, a number of which come with no income thresholds.

Select Individual Strategies

- Job-hunting expenses: Expenses incurred in seeking new employment in the same trade or business are deductible. Common deductible expenses include resume costs such as postage, job counseling and referral fees, employment agency fees, telephone charges related to seeking new employment and local and out-of-town travel expenses incurred for interviews, to the extent not reimbursed by the prospective employer.
- Moving expenses: If you moved more than 50 miles for your new job, you can deduct the cost of getting yourself and your household goods to the new area, including 24 cents per mile (plus parking fees and tolls) for driving your own car. Certain other timing requirements must be met.
- COBRA - continuing health care coverage: If you have self-employment income following termination of employment, the cost of your medical insurance premiums may be deductible dollar-for-dollar against income such as employment income, interest and dividends. New for 2009, the 65 percent subsidy for continuation coverage is not taxable.
- Unemployment compensation: New for 2009, unemployment compensation is tax free up to $2,400 per person.
- Home office expenses: Employees and self-employed individuals may be eligible to claim home office deductions. Taxpayers may deduct home office expenses if part of the home is used exclusively and regularly for business. The business use must also be for the convenience of the employer. Deductible expenses include the allocable portion of many traditional personal and non-deductible expenses, such as insurance, utilities, repairs, maintenance and depreciation. Those eligible should consult with their tax advisors as this is an area subject to close scrutiny by IRS.
- IRA contributions: Consider contributing up to $5,000 ($6,000 if age 50 or older) to a traditional or Roth IRA, or a combination thereof. IRA deductions may be available for those covered by other plans subject to certain dollar limits and phased out for single taxpayers with adjusted gross income between $55,000 and $65,000 and for joint

filers with AGI between $89,000 and $109,000. Contributions up to $6,000 to a Roth IRA will be allowed for taxpayers with AGI less than $166,000 for couples and $105,000 for single taxpayers.

- Roth IRA recharacterizations: Traditional IRAs converted to Roth IRAs are taxable on the portion that represents a return of nondeductible contributions. This may yield the unintended consequence of propelling a taxpayer into a higher tax bracket, presenting a difficult burden for taxpayers who have suffered a job loss or significant investment losses. While bonuses, severance payments and other income items typically cannot be reversed, taxable Roth IRA conversions can be reversed through a mechanism known as "recharacterization." Without the taxable income from the conversion, a taxpayer can avoid being taxed at a higher rate. The timing rules can be complex, so consult with your tax adviser prior to undertaking an IRA recharacterization. The deadline for recharacterizing a contribution or conversion is the extended due date of your tax return for the year of contribution or conversion, meaning you can recharacterize for 2009 by April 15, or if your return is extended, you have until Oct.15 to recharacterize.
- First-time homebuyers: Reintroduced for 2009, "first-time" homebuyers who purchased a primary residence after 2008 and before May 1, 2010 (July 1, 2010, if contract signed prior to May 1, 2010), may qualify for a tax credit up to $8,000. The credit is phased out for single and joint filers with AGI between $75,000 to $95,000, and $150,000 to $170,000, respectively. The 2009 American Reinvestment and Recovery Act eliminated the previously required repayment provision (unless the home is sold within three years of purchase or otherwise ceases to be a primary residence).
- Long-time homebuyers: New for 2009, a $6,500 credit is available for homebuyers who have owned a home for a period of five consecutive years in the eight years prior to purchase. The credit applies to purchases made after Nov. 6, 2009. Buyers must enter into a binding contract to buy a home on or before April 30 and close on the home by June 30. Credit phases out for single taxpayers with AGI between $125,000 and $145,000 and for joint taxpayers with AGI between $225,000 and $245,000.
- American Opportunity Education Credit: The maximum Hope education credit is increased to $2,500. Education credit income limits have also increased, with phase-out occurring for single taxpayers with AGI between $80,000 and $90,000 and joint taxpayers with AGI between $160,000 and $180,000.

  vTuition and fees deduction: You may deduct the qualified tuition and related expenses paid during the tax year for you or your spouse and dependents, subject to certain dollar limits. Crunch the numbers to determine the favorable benefit, the education expense deduction or education credit.

- Making Work Pay credit: New is a refundable credit in the amount of 6.2 percent of earned income, subject to wage limits. Credit is phased out for single taxpayers with AGI of $75,000 to $95,000 and for joint taxpayers with AGI of $150,000 to $190,000.
- Motor vehicle sales tax deduction: Whether or not you itemize your deductions, a write-off may be available for state and local taxes paid on purchases of new vehicles, including new cars, light trucks, motor homes and motorcycles, after Feb. 16, 2009. Phased out for single taxpayers with AGI between $125,000 and $135,000 and for joint taxpayers with AGI between $250,000 and $260,000.
- Adoption tax benefits: The maximum adoption credit increased to $12,150.
- Child tax credit: You may claim the often-missed child tax credit of up to $1,000 per child. To qualify, you must have a qualifying child under 17 years old, and your modified AGI must be lower than $75,000 for single taxpayers and $110,000 for couples.

- Section 529 plan expenses: Computer equipment, Internet access and related services now qualify as qualified education expenses and can be withdrawn tax-free from your 529 plan.
- Standard mileage rates: New rates apply for use of a car: $0.55 cents per mile for business use of car, $0.24 cents per mile for medical reasons and for the cost of operating your car for determining moving expenses, and $0.14 for the use of a car for charitable purposes.
- Energy credits enhanced: Homeowners who make energy efficient improvements may be able to claim a new credit of 30 percent of the cost of all qualifying improvements up to $1,500.
- Electric motor vehicle (aka golf cart) credit: Credit expanded to maximum of $7,500. Vehicles must be new and have four or more wheels, among other qualifications. Golf carts qualify for this credit if they qualify as "neighborhood electric vehicles," meaning the cart must include safety features such as headlights, seatbelts, parking brake and driver's side mirrors.
- Foreign financial accounts: With minor exceptions, must be reported on Form TD F 90-22.1 and filed by June 30 by any person with a financial interest in or signature authority over the foreign account. Those not in compliance may be subject to civil and/or criminal penalties.
- Haiti relief effort contributions: Charitable contributions to aid Haitian earthquake victims made after Jan. 11 and before March 1 may be claimed as an itemized charitable deduction on 2009 tax returns, rather than waiting until next year to claim the deductions on 2010 tax returns. High-income taxpayers, however, may wish to consider reporting the deductions in 2010, as income tax rates may rise and the deductions may provide greater value.
- Long-term capital gains: Your children may pay no tax on long-term capital gains if they are in a 15 percent bracket with taxable income for single filers between $8,350 and $33,950, or married taxpayers filing jointly with income between $16,700 and $67,900. Properly applying this provision of the law can save up to approximately $10,000 in tax.
- Gain from certain small-business stock: Exclude gain up to 75 percent for stock acquired after Feb. 17, 2009, and before 2011.
- Tax refund options: New and flexible options exist for receiving your 2009 federal income tax refund, including splitting your refund with direct deposits into multiple checking or savings accounts, receiving your refund as a paper check in the mail, although this option takes longer, or buying up to $5,000 in U.S. Series I Savings Bonds with your refund.

File even if you cannot pay by April 15. If you are unable to pay your tax liability in full by April 15, you should still timely file or timely extend your tax return. Failing to timely file will significantly increase penalties.

Select Business Strategies

- Write off business equipment: Expense the cost of qualified machinery and equipment up to $250,000.
- Bonus depreciation: You may be able to deduct 50 percent bonus depreciation for qualified property placed in service in 2009. Businesses can elect to forgo the 50 percent bonus depreciation and instead use R&D and minimum tax credit carryovers subject to certain limitations.
- Business start-up and organizational expenses: Businesses may elect to deduct up to $5,000 of business start-up costs and $5,000 of organizational costs and amortize the remainder over 15 years. The $5,000 cap is reduced by the excess of the total start-up or organizational expenditures over $50,000 in the tax year in which the trade or business begins. The election must be made with the initial tax return.

- Net Operating Loss (NOL) carrybacks: Qualified small businesses with average gross receipts of $15 million or less may carry back NOLs three, four or five years. The election must be made by the due date of the return, including extensions.
- Energy-efficient commercial building property: A tax deduction of up to $1.80 per square foot is available for owners who build or improve energy-efficient buildings. Improvement property may be installed as part of a building's interior lighting systems, heating/cooling/ventilation and hot water systems, or the building envelope. The deduction can be substantial.
- Software deductions: A special provision permits businesses to deduct the cost of software in the year of purchase, provided it is used in the same year as purchased.
- Work opportunity tax credit: Businesses may claim credits between $2,400 and $9,000 for the hiring of any unemployed veteran or disconnected youth (unemployed youth between 16 and 24 years of age) who commenced work in 2009.
- Deferred income from debt cancellation: Qualifying businesses can elect to delay income recognition until 2014 arising from the reacquisition of certain types of business debt repurchased. Income is then recognized over five years.
- Built-in gains: Corporate level tax eliminated on built-in gains of an S corporation that converted from C corporation status at least seven years prior to the current tax year.
- Smaller estimated tax payments: Qualified individuals with small businesses may be eligible to make smaller estimated tax payments.
- COBRA premium assistance: Businesses can claim a tax credit against payroll taxes for providing COBRA premium assistance to eligible individuals.
- Credit for employer differential wage payments: Eligible employers may claim a credit for differential wage payments made to qualified employees.
- Depreciation of race horses: A races horse, depending on its age, was either a three-year or seven-year recovery property. Starting in 2009, all race horses, regardless of age, are three-year recovery property.

Beware of increased penalties for late filing of partnership and S corporation returns.

These are but a few of the strategies you may wish to consider as you either prepare to complete your 2009 tax returns or finalize your extension calculations. It is advisable to discuss the strategies included herein and other tax preparation matters with a qualified tax professional.

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