Summary of Tax Provisions Included in the American Recovery and Reinvestment Act of 2009

March 10, 2009

On February 17, 2009, President Obama signed into law H.R. 1, the American Recovery and Reinvestment Act of 2009 (the 2009 Recovery Act). The nearly $800 billion stimulus plan seeks to stimulate the economy and address the current financial challenges through a combination of $326 billion in tax relief, aid to states and municipalities and direct federal spending. The 2009 Recovery Act includes a wide variety of tax relief provisions for businesses, low- and moderate-income individuals, and families, including the following:

Tax breaks for individuals. They include a refundable tax credit of up to $400 per worker for single filers with income less than $75,000 and $800 for joint filers with income less than $150,000, phasing out completely at $95,000 for single filers and $190,000 for joint filers. Also included are eased child tax-credit rules, a more generous tax credit for higher education, an enhanced credit for first-time home purchases with the removal of the repayment requirement and a temporary tax deduction for state sales and excise taxes paid on the purchase of new cars in 2009, including light trucks and SUVs, motorcycles and motor homes, all of which are subject to income thresholds as well as an 80% subsidy for COBRA premiums for up to nine months for taxpayer and qualified dependent coverage.

Alternative Minimum Tax (AMT) relief. The 2009 Recovery Act boosts AMT exemption amounts for individuals for 2009, and also provides that for 2009, personal nonrefundable credits may offset AMT and regular tax. Additionally, interest on qualifying private activity bonds issued in 2009 or 2010 is not treated as an AMT preference (nor is there an ACE adjustment for interest on tax-exempts issued in 2009 or 2010).

Energy incentives. They include a three-year extension of the production tax credit for electricity derived from wind (through 2012) and for electricity derived from biomass, geothermal, hydropower, landfill gas, waste-to-energy and marine facilities (through 2013); extension through 2010 and expansion of tax credits for home energy efficiency for purchases, such as new furnaces, energy-efficient windows and doors, or insulation; a tax credit of up to a maximum of $7,500 for families that purchase plug-in hybrid vehicles; and a new manufacturing investment tax credit for investment in advanced energy facilities, such as facilities that manufacture components for the production of renewable energy, advanced battery technology and other innovative next-generation green technologies.

Tax breaks for businesses. They include extended bonus depreciation and increased expensing for 2009, longer and various net operating loss carryback periods for some, deferral of tax on debt discharge income from reacquisition of debt, reduced capital gains tax for holders of qualified small business stock, and a shortened S corporation built-in gain holding period. Benefits-related changes include eased rules for transit and vanpool fringe benefits, a limited-time-only subsidy for COBRA continuation coverage and eased health-coverage tax-credit rules.

We have prepared a chart highlighting key tax and benefit provisions in the 2009 Recovery Act affecting individuals, families and businesses with relevant income thresholds so interested parties can easily and quickly determine how they may be impacted by these provisions.

Additionally, on February 26, 2009, President Obama proposed a contentious budget recommending higher taxes for high-income individuals and families and the initial steps toward guaranteed healthcare for all. While Obama's planned budgetary initiatives include some favorable tax changes for businesses, a continuation of key Bush-era tax cuts for non "high income" taxpayers and tax cuts for low- and moderate-income individuals, they also include higher taxes for "higher income individuals." Obama's budget contains almost $1 trillion in tax increases over a 10-year period on individuals making more than $200,000 and couples earning over $250,000 including:

- Reinstatement of the 36% and 39.6% top tax rates (effective 2011).
- Reinstatement of the personal exemption phase-out and limitation on itemized deductions (effective 2011).
- Increase in the tax rate on capital gains and dividends from 15% to 20% (effective 2010).

On February 27, 2009, the U.S. Senate Budget Committee Majority Staff released ("Staff Release") a "Brief Analysis of President Obama's FY 2010 Budget," providing additional details on critical elements of Obama's plan, including a proposal to limit the tax rate at which higher-income individuals (individuals making more than $200,000 and couples earning over $250,000) can claim itemized deductions to 28% (instead of up to 39.6%), with no indication of when this change would take effect. The Staff Release adds that Obama's budget will assume that the estate tax, as it is in effect in 2009, would be permanently extended, and indexed to inflation. In 2009, the estate tax exemption is $3.5 million ($7 million for a couple), and the top rate is 45% percent.

While Obama's budget proposal is likely to have an effect on the finances of many Americans, it is only a proposal; nonetheless, it reveals the major tax initiatives that his administration will pursue. Republicans are likely to have different plans. From a tax perspective, much is to be done in 2009, and as the year progresses, tax legislation, debates and ramifications will be at the forefront of discussions. While uncertainties in the tax environment exist, changes are likely. However, effective dates are uncertain in light of budget and deficit realities and the state of the U.S. economy. As every year poses tax-planning opportunities and challenges, whether due to actual or anticipated legislative changes, or to changes or uncertainties in your financial situation, it may be worth considering the prudent approach of planning now, based on current law, and revising those plans as needed.

For Further Information

If you have any questions regarding this Alert, please contact Michael A. Gillen, Director of the Tax Accounting Group, or the practitioner with whom you are regularly in contact.

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