

# NEWS RELEASE

## **FINAL STIMULUS PLAN PROVIDES TAX BREAKS FOR INDIVIDUALS, BUSINESSES, ENVIRONMENT, GOVERNMENT**

(RIVERWOODS, ILL., February 13, 2009) – Senate and House conferees have agreed on the final provisions of *The American Recovery and Reinvestment Act of 2009*, the major “economic stimulus” measure of the new Obama administration, according to CCH, a Wolters Kluwer business ([CCHGroup.com](http://CCHGroup.com)). The agreement is expected to pass both houses of Congress without further changes this week and be signed into law by the president.

To read the *CCH Special Tax Briefing* on the significant tax provisions of the Act, go to <http://tax.cchgroup.com/legislation/>.

“While spending is the largest component of the stimulus plan, this is also a major tax bill,” said Mark Luscombe, JD, LLM, CPA, and CCH principal federal tax analyst.

The tax provisions, which affect individuals, businesses, environment and government, are aimed at increasing spending, employment, education and clean energy.

### **Low, Modest Incomes Benefit**

Low and middle-income wage earners; people receiving unemployment benefits; prospective new car and home buyers; and families or individuals with college expenses may all benefit from the changes affecting individuals. In addition, the stimulus legislation provides another temporary “patch” that will keep millions of taxpayers out of the reach of the alternative minimum tax (AMT) for another year.

The provision that will affect the greatest number of people is a “Making Work Pay” tax credit for the 2009 and 2010 tax years. The credit will be figured as 6.2 percent of taxable wages, to a maximum of \$400 for single filers or \$800 for joint filers. The credit begins to phase out at adjusted gross incomes of \$75,000 for single filers and \$150,000 for joint filers, diminishing by 2 percent of any amount above those levels. In effect, the credit decreases to zero when adjusted gross income hits \$95,000 for single filers; \$190,000 for joint filers.

Recipients of Social Security, Railroad Retirement and Veteran’s Administration benefits will get a minimum credit of \$250, even if they have little or no earned income to qualify for the credit otherwise.

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"The credit is refundable, so some people will benefit from the credit, even if they don't owe income taxes," Luscombe noted.

Unlike the "stimulus rebate" credits of 2008, which were delivered in the form of a single check, the "Making Work Pay" credit will be delivered as a somewhat larger paycheck, as a reduction in quarterly estimated tax payments or as part of a tax refund.

"The idea seems to be that if people get the credit through their paychecks, the money is more likely to get into circulation, rather than stuck into a savings account or used to pay down debt," Luscombe said. "Changing people's withholding can be difficult to do automatically, however. It will be interesting to see how it's managed."

### **Yet Another AMT Patch**

The stimulus bill contains another temporary AMT patch to the tax code that will keep millions of taxpayers from having to pay the vexsome alternative levy. For 2009 returns, it sets the AMT exemption at \$46,700 for single filers, \$70,950 for joint filers. Absent the patch, these amounts were set to revert to just \$33,750 for individuals and \$45,000 for married couples filing jointly.

"Congress has been applying a one-year patch every year for several years now, usually late in the year," Luscombe noted. "This expected bit of tax help probably won't have a very stimulative effect, but it will lessen uncertainty and help people plan their tax moves earlier in the year."

### **Expanded Credit for Educational Expenses**

Many people paying for college expenses will benefit from a multi-dimensional expansion of the Hope Credit for post-secondary education.

Renamed the "American Opportunity Tax Credit" for the 2009 and 2010 tax years in which it will be available, the maximum credit amount will be \$2,500 versus \$1,800 under current law. It's figured as 100 percent of eligible expenses to \$2,000 plus 25 percent of expenses above \$2,000, so someone with total eligible expenses of \$4,000 or more would reach the maximum amount.

Unlike the existing Hope Credit, which covers expenses during only the first two years of post-secondary education, the American Opportunity Credit can be used for expenses incurred in up to four years of study. In effect, it will also largely replace the existing Lifetime Learning Credit for college expenses over the next two years.

In addition, the legislation expands the kinds of expenses eligible in figuring the credit to include "course materials."

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"Up until now, you haven't been able to include cost of textbooks in computing the credit, yet that cost can be substantial," Luscombe noted. "Some students attending community colleges with modest tuition costs might see a significant increase in the amount of credit they can claim."

The credit can also now be claimed by some people whose incomes made them ineligible to take full advantage of the Hope Credit. It phases out with modified adjusted gross incomes between \$80,000 and \$90,000 for single filers, or \$160,000 and \$180,000 for joint returns, as opposed to previous phaseout ranges of \$50,000 to \$60,000 and \$100,000 to \$120,000.

Finally, 40 percent of the credit will be refundable, so even if a family owes no income tax due to other credits and deductions, it can receive a check for a portion of the American Opportunity Credit. However, a child cannot claim the credit unless he or she provides more than half his own support.

"These changes provide some help to families struggling with college costs in hard times and may allow some students to stay in school who would otherwise drop out," Luscombe said. "But although a more educated workforce is probably a public benefit in the long run, it's hard to see this providing a lot of economic stimulus right away."

In another education-related tax benefit, the new measure will allow withdrawals from 529 savings accounts to pay for computers, computer-related technology and Internet access for beneficiaries.

"Colleges and universities typically require students to have laptops, so this is an appropriate expansion of permitted withdrawals from qualified tuition savings programs," Luscombe said.

### **Help with Earned Income, Child Credits**

The stimulus measure will benefit people at the lower end of the income scale in a number of ways. Married couples with children entitled to the Earned Income Tax Credit, or EITC, can benefit from a provision that raises the "phaseout" range of the credit, so they retain more of the credit as their incomes increase. Taxpayers with three or more children also see an increase.

Low-income families also benefit from a liberalization of the refundable portion of the \$1,000-per-head Child Credit. The new provision takes income above \$3,000, rather than \$8,500, into account in figuring how much of the credit can be refunded, even if the taxpayer owes no other tax. This expands the number of people who can take full advantage of the refundable credit.

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"If these changes are figured into withholding, taxpayers will have a few extra dollars in every paycheck, which they presumably will spend," Luscombe observed.

### **New Rules for First-time Homebuyer Credit**

The plan modifies the first-time homebuyer credit that was signed into law last year by increasing the maximum credit amount to \$8,000 and by removing a requirement that the credit be repaid over 15 years, but the waiver applies only to houses purchased in 2009. The credit is also extended until December 1, 2009. However, those who take the credit will have to repay the entire amount if they sell their homes within three years of purchase.

Under current law, those who purchased homes between April 9 and December 31 of 2008 can claim the credit on their 2008 return, but must repay it over 15 years, beginning with their tax return two years after purchase. If they sell the home, they must repay the entire credit, but only up to the amount of their gain on the sale.

### **Stimulus for New Car Sales**

To stimulate new car sales, the Act provides a deduction from gross income for sales tax attributable to the first \$49,500 of the purchase price of a new car, motorcycle, light truck or mobile home. The purchase must take place in this year, on or after the date when President Obama signs the legislation. Taxpayers can take the deduction even if they don't itemize – but they can't take this deduction and also take an itemized deduction for state and local sales tax. The deduction begins to phase out when modified AGI reaches \$125,000 for single filers and \$250,000 for joint filers, phasing out completely at \$135,000 and \$260,000 respectively.

People who take mass transit or belong to van pools may also see an increased benefit, since the stimulus increases the current exclusion amount for those benefits from \$120 to \$250 per month, starting in March 2009, effectively creating parity with employer-provided parking benefits.

### **Tax Help for the Unemployed**

Unemployed workers will benefit from an exclusion of the first \$2,400 of unemployment benefits from the reach of the federal income tax for 2009.

"People are often surprised to find that unemployment compensation is considered the same as taxable wages," Luscombe said. "This doesn't completely change the system, but provides some relief from a rule that seems to kick people while they're down."

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The stimulus measure also lessens the cost for people who lost their jobs on or after September 1, 2008 and up until December 31, 2009 who want to continue their group health coverage. It uses credits against payroll tax to reimburse employers for subsidizing 65 percent of the premium for COBRA continuing coverage for up to nine months.

### **Benefits for Businesses**

Small businesses experiencing losses in tax years beginning or ending in 2008 can benefit from a provision that allows them to apply the loss to previous years' income for as many as five years before the year in which the loss takes place, potentially producing a tax refund for the prior year. Normally, losses can be "carried back" only to the two previous years. "Small" businesses, for this purpose, are those with gross receipts of less than \$15 million.

"This can put cash back into a business quickly, and may keep a struggling business from closing its doors," Luscombe said. "It's not so clear that it will actually increase economic activity."

The legislation also extends two provisions that encourage businesses to invest in equipment. Bonus depreciation, which allows a business to write off an additional 50 percent of the cost of new equipment in the first year, will be extended from 2008 to 2009. Enhanced small business expensing, which allows businesses to totally write off up to \$250,000 in new equipment subject to a phaseout when capital expenditures exceed \$800,000, will also be extended from 2008 to 2009.

"Many people are doubtful that these provisions actually produce any more spending on equipment than would otherwise take place," Luscombe noted. "They argue that businesses don't buy equipment just to get a tax break; they buy it because they believe they can increase sales and profits. It also won't help businesses that are strapped for cash and unable to borrow. Still, not extending these breaks would probably have sent the wrong signal."

To encourage purchase of certain small business stock, the law increases the exemption for gain on the stock held for five years or more from 50 percent to 75 percent for stock acquired after the date of enactment and before January 1, 2011.

For S corporation conversions, the law temporarily shortens, from 10 to 7 years, the holding period for assets subject to the built-in gains tax imposed after a C corporation elects to become an S corporation. This reduction would apply to C corporations that convert to S corporations in tax years beginning in 2009 and 2010.

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"Sometimes, converting to an S corporation is the best way for a C corporation to cope with economic difficulties, and this gives them a little bit more leeway to do that," Luscombe said.

The Act also allows corporations to defer recognition of "income" that is attributed to them when a creditor cancels or reduces their debt temporarily, extends a temporary provision that allows businesses to take a larger portion of AMT or research and development credits in lieu of bonus depreciation and reduces required estimated tax payments for 2009.

### **Credits for Business to Do Good**

The law expands the existing Work Opportunity Tax Credit, which generally gives businesses up to \$2,400 to add people in targeted groups to their payrolls. It adds unemployed veterans discharged in 2008, 2009 or 2010 and "disconnected youth" – those between 16 and 25 who haven't been regularly employed or in school for the last six months to the list of "targeted groups."

"This may induce employers to take on some people they see as 'high risk,' or who need more training than usual," Luscombe said. "But, once again, businesses would probably have to see a genuine need for a larger workforce, not just the opportunity for a tax break, to increase hiring."

A new investment tax credit is now available for investments in broadband technology in underserved rural areas and the use of tax exempt industrial development bonds is expanded to cover facilities used in creating intangible, as well as tangible, property.

"The aim of the credits is to encourage businesses to serve the public good by subsidizing their investments in people, economic development and needed technology," Luscombe said.

### **Credits to Create "Green Jobs"**

The stimulus contains a number of energy-related tax provisions. Among them is removal of dollar limitations on credits for certain small wind property, solar water heating and geothermal heat pumps credits. The cap on solar electricity property had already been removed in 2008 legislation. All would be eligible for an uncapped 30-percent credit. The legislation extends the tax credits for improvements to energy-efficient existing homes through 2010 and increases the credit from 10 to 30 percent. It eliminates item-by-item dollar caps and instead provides an overall \$1,500 cap. It also extends a credit for electricity produced from renewable sources, such as biomass, solar and wind – through 2012 for wind power and 2013 for other types.

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A new investment tax credit is provided for "advanced energy" property, including technology for producing renewable energy, energy storage and conservation, efficient transmission and distribution of electricity and carbon capture and sequestration. Projects must be certified by the Secretary of Treasury in consultation with the Secretary of Energy.

"What's being aimed at here is partly pumping money into the economy directly through the credits, but also creating new 'green jobs' that will put people to work and installing energy-efficient systems that will save money in the long run," Luscombe noted.

Plug-in vehicles get an extra boost under the stimulus, as well. The number of four-wheel vehicles that can qualify for the existing credit is doubled, and a low-speed credit is introduced for vehicles sold after December 31, 2009, with a maximum credit of \$4,000.

#### **Tax Incentives for State, Local, Tribal Projects**

State and local governments will benefit through a wide variety of measures that should make their bonds easier to sell, including exempting "private activity bonds" from the alternative minimum tax. Local governments can also issue "recovery zone" bonds to finance projects in areas experiencing "significant poverty, unemployment or home foreclosures," and Indian tribal governments are given an expanded ability to issue bonds to finance economic development.

"These tax provisions may spur some development at a relatively low cost to the federal treasury, but a greater part of the president's recovery plan relies on direct grants to the states for 'shovel-ready' projects," Luscombe said.

#### **About CCH, a Wolters Kluwer business**

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