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TAX AND
BUSINESS **Alert**™

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Congress recently passed and the President has signed the Tax Extenders and AMT Relief Act of 2008 (Extenders Act). This legislation includes another one-year patch for the alternative minimum tax (AMT). As in prior years, this year's AMT patch has two parts—a larger AMT exemption or threshold before the AMT kicks in and the continued ability to use certain tax credits to offset the AMT. These changes only apply to tax years beginning in 2008 (which means calendar 2008 for most individual taxpayers). This new law is a one-year stopgap to prevent the unintended result of having millions of middle-income taxpayers fall prey to the AMT.

The 2008 exemption for married joint filers and surviving spouses is \$69,950, up from \$66,250 in 2007. For unmarried individual filers, the 2008 exemption is \$46,200 compared with \$44,350 in 2007. Finally, the 2008 exemption for married individuals who file separately is \$34,975, up from \$33,125 in 2007.

The Extenders Act permits individuals to use designated nonrefundable personal tax credits (including the child and dependent care credit, the elderly or disabled credit, and the Hope and Lifetime Learning credits) to reduce their

2008 AMT Patch

AMT and regular tax liability for tax years beginning in 2008. Temporary provisions had been enacted that permitted these credits to offset the regular and AMT liability through the end of 2007. The new law extends this temporary provision to tax years beginning in 2008.



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This two-part AMT patch reduces an individual's exposure to the AMT for one more year. However, Congress will have to revisit this issue once again for the 2009 tax year.

We realize the AMT is a somewhat technical and complicated tax law that often affects unsuspecting taxpayers. Please avoid an unpleasant surprise next spring and contact us with your questions or concerns about how you might be impacted by this onerous tax provision.

The information contained in this newsletter was not intended or written to be used and cannot be used for the purpose of (1) avoiding tax-related penalties prescribed by the Internal Revenue Code or (2) promoting or marketing any tax-related matter addressed herein.

Plug-in Electric Vehicle Credit

Electric-powered vehicles are receiving a great deal of attention lately because of the high cost of gasoline. These vehicles should be available to consumers for purchase within the next few years. Surprisingly, Congress seems to be on top of things and, in the recently passed Energy Improvement and Extension Act of 2008 (Energy Act), has authorized a tax credit as an incentive to purchase a plug-in vehicle.



Chevrolet Volt 2008 Introduction

The new qualified plug-in electric drive motor vehicle credit (plug-in vehicle credit) will range from \$2,500 to \$7,500 for light-duty vehicles, with factors such as battery capacity determining how much buyers will receive. The base credit will be \$2,500 for vehicles powered by a 4-kilowatt battery. An additional \$417 will be added to the credit for each additional kilowatt hour of battery power, up to a maximum of \$7,500 for light-duty vehicles (gross vehicle weight rating of not more than 10,000 pounds). Heavier vehicles can qualify for a credit of up to \$15,000. This credit will serve to ease the anticipated sticker-shock prices of plug-in electric vehicles.

The plug-in vehicle credit is available for vehicle purchases after December 31, 2008 and before January 1, 2015. This credit will be phased out after the 250,000th plug-in electric vehicle has been sold.

Finally, Tax Relief for Dot-com Era ISO Owners

For the regular federal income tax, any profit realized from the sale of stock received as a result of exercising incentive stock options (ISOs) is generally taxed when that stock is sold, not when the ISO is exercised. However, under the federal alternative minimum tax (AMT) provision, a taxpayer will generally be required to pay AMT on the stock's value in excess of the exercise price when the option is exercised. AMT paid can subsequently be used as a credit against any regular tax due when the stock is eventually sold (i.e., the taxpayer is not taxed twice).

The economic downturn in 2000 resulted in many individuals (dot-com stock owners) having to pay tax on "phantom income." These taxpayers exercised stock options offered by their employers during the dot-com era and incurred a substantial AMT liability. But, before they could sell their stock, the price fell

precipitously and the stock was worth less than the AMT liability they had incurred. As a result of this phenomenon, these taxpayers had a large AMT credit carryover in the year they paid their AMT or, even worse, were being pursued by the IRS for the AMT due plus penalties and interest incurred over several years.

In 2006, Congress provided relief, but did not correct the problem entirely. The Tax Extenders and AMT Relief Act of 2008 (Extenders Act) provides additional relief to affected taxpayers by accelerating the refund of taxes paid on the phantom income and by stopping further IRS efforts to collect those taxes. Generally, the new law allows 50% of long-term unused AMT credits to be refunded over each of two years (instead of 20% over each of five years, as was allowed under pre-Extenders Act law), eliminates a rule that limited the relief available to higher-income taxpayers, and abates any underpayment of tax outstanding on October 3, 2008 related to ISOs and the AMT including interest and penalties.

Congress recently enhanced the tax credit for solar energy and added two new energy systems to the list of residential energy enhancements qualifying for the residential energy efficient property (REEP) credit. The recently enacted Energy Improvement and Extension Act of 2008 (Energy Act) includes these provisions designed to give taxpayers an immediate tax break and partially cover the cost of these new systems that will lower future energy bills.

Prior to the Energy Act, individuals were allowed a tax credit for REEP expenditures for qualified solar water heating and photovoltaic systems. These credits, available for systems placed in service between January 1, 2006, and December 31, 2008, amounted to 30% of the system's cost. The credit for individuals was 30% per system in any tax year, but was capped at a maximum of \$2,000 per system.

For tax years beginning after December 31, 2008, the Energy Act makes several enhancements to previous legislation. First, the credit is extended for an additional eight years through 2016. Next, the \$2,000 cap for solar water heating property expenditures is eliminated and the credit will be 30% of the system's entire cost. This allows a taxpayer installing a \$30,000 system to receive a \$9,000 tax credit where, prior to the Energy Act, the credit would have been limited to just \$2,000. A nice break considering the high cost of these systems. Finally, the credit is fully available to offset the AMT in 2009. As with prior law, the dwelling unit must be located in the U.S. and be used as a residence by the taxpayer.

The Energy Act adds small wind energy property and geothermal heat pump systems as components eligible for the REEP credit. Qualified small wind energy property is property that uses a wind turbine to generate electricity for use in connection with a dwelling unit in the U.S. and used as a residence by the taxpayer. The Code does not require the residence to be the principal residence of the taxpayer. So, wind turbines

Enhanced Residential Energy Credit

installed on a second residence appear to comply. This component of the credit is limited to \$500 for each ½ kilowatt of capacity, not to exceed \$4,000.



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In addition, the 30% credit is now available for qualified geothermal heat pump system property expenditures. A qualified geothermal heat pump is geothermal heat pump property installed on or in connection with a dwelling unit located in the U.S. and used as a residence by the taxpayer. As with wind property, it appears that geothermal heat pumps installed in a second residence will qualify for the credit. This component of the credit is limited to \$2,000 for any qualified geothermal heat pump system expenditure. Prior to the Energy Act, heat pumps qualified for the nonbusiness energy property credit, but that credit amount was limited to \$300.

With the enhancement of the REEP credit, Congress has given taxpayers an even greater opportunity to save on taxes and their future energy costs as well. This law change also presents a tax planning opportunity since delaying the installation until 2009 could result in a new or higher tax credit. For example, if, during 2008, a taxpayer spends \$10,000 on solar energy property, the credit will be limited to \$2,000 (the cap). However, if that same taxpayer delayed the purchase until 2009, the credit would be \$3,000 ($\$10,000 \times 30\%$).

Please contact us to discuss the REEP credit or any other tax compliance or planning issue.



Congress Extends Numerous Tax Breaks


The recent Tax Extenders and AMT Relief Act of 2008 (Extenders Act) provides



extensions for several popular tax breaks and the addition of several new relief provisions, including disaster-area tax relief. Following is an overview of some of the key provisions

for individuals and business owners in the new legislation:

- **College Tuition Deduction.** The above-the-line deduction for up to \$4,000 of college tuition and related fees was retroactively restored for 2008 and extended through 2009.
- **Optional Sales Tax Deduction.** The optional itemized deduction for general state and local sales taxes was retroactively restored for 2008 and extended through 2009.
- **Additional Standard Deduction for Property Taxes.** The new (for 2008) standard deduction for nonitemizers of up to \$1,000 for married joint-filers (\$500 for others) was extended through 2009.
- **Educator Expense Deduction.** The above-the-line deduction for up to \$250 of personal expenditures by teachers and other school employees was retroactively restored for 2008 and extended through 2009.
- **IRA Rollover Provision.** The provision allowing qualified taxpayers to make tax-free contributions from their IRA plans to qualified charitable organizations is extended through 2009.
- **15-year Cost Recovery.** The 15-year write-off for qualified leasehold, restaurant, and retail improvements is extended through 2008.
- **S Corporation Charitable Contributions of Property.** Favorable Subchapter S basis rules for gifts of appreciated property are extended through 2009.
- **Disaster Relief.** Included in the new legislation are Midwestern disaster area tax relief and a new tax relief package for victims of all federally declared disasters occurring after December 31, 2007, and before January 1, 2010.

We hope this information is helpful. If you would like more details about these changes, or any other aspects of the new law, please do not hesitate to contact us. 

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