

2009 and 2010 TAX PLANNING PART II

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1. Higher Education Costs

The deduction for higher education costs expires at the end of 2009. In addition the American Opportunity Credit replaces the Hope Credit with an increase in the maximum tax credit from \$1,800 to \$2,500 for 2009 and 2010. Income phase-out levels are raised to \$160,000 of adjusted gross income (AGI) for joint filers and \$80,000 of AGI for single filers. Also new is the change to make 40% of the tax credit refundable which should enable lower income taxpayers to get a tax refund for 2009 and 2010.

2. Depreciation Limits

Business owners need to review whether to accelerate into 2009 the purchase equipment that under Sec. 179 was planned to be purchased in 2010. The 50% bonus depreciation and higher limits under Sec. 179 to expense equipment purchased up to \$250,000 will expire at the end of 2009.

3. Sales Tax Deduction for Purchased Vehicles

The deduction for sales tax paid on a new vehicle purchased (up to \$49,500) will expire at the end of 2009. Taxpayers may elect to take the deduction as an addition to the standard deduction, as an additional itemized deduction along with the deduction for state and local taxes or as part of the deduction for state and local taxes. The rules need to be reviewed carefully so that there is no double deduction and to determine whether the vehicle sales tax is deductible for Alternative Minimum Tax (AMT) purposes. The deduction is phased out for taxpayers whose modified AGI is \$135,000 or more for single filers and \$260,000 or more for joint filers.

4. **Making Work Pay Refundable Tax Credit**

This provision provides a refundable tax credit of up to \$400 for working individuals and up to \$800 for married taxpayers filing joint returns in 2009 and 2010. Through automated withholding changes that began this spring, most individuals with earned income that is subject to withholding received an increase in their paychecks. Pensioners do not qualify for this credit unless they have earned income. However, the new withholding tables apply to all taxpayers, including pensioners. Pensioners and other taxpayers (including those who have more than one job and whose earnings in those jobs are subject to withholding) need to determine if enough tax is being withheld. If necessary, adjustments to withholding can be made by filing FORM W-4P, Withholding Certificate for Pension or Annuity Payments. More information on this credit can be found in News Release 2009-13 and Publication 15-T.

5. **Roth IRA New Rules for 2010**

The conversion of a traditional IRA to a Roth IRA, previously only available to those with modified adjusted gross income of less than \$100,000, will be available in 2010. They are enabling anyone to make the rollover, and they're allowing you to pay tax on the rollover in two installments. If you do the rollover in January 2010, you can pay the tax in 2012 and 2013 (on the 2011 and 2012 returns). The government determined that when you convert, it means they get more tax revenue. Since most people don't like to pay up front, the government gives a tax break to encourage taxpayers to do it. That decision to do it or not will be a major question for CPAs to deal with this coming tax season. Upper-income taxpayers should consider making nondeductible IRA contributions for 2009 up to April 15, 2010, and that way the client can convert the funds from a nondeductible traditional IRA to a Roth IRA. It's a way to put them in line to take greater advantage of the Roth IRA.

6. **Health Savings Accounts**

The HSA is a tax-deductible savings account that may be funded by employees, employers or both. It must be coupled with a Health Insurance Plan that requires the insured to first pay a deductible (the amount of money which the insured party must pay) before the insurance company's coverage begins. This is called a "High Deductible or Catastrophic" Health Plan. The policy can be in the form of a HMO, PPO or indemnity plan, as long as it meets the HDHP requirements. The deductible amount has a minimum and maximum which is determined by the Internal Revenue Service (IRS) each year. The 2009 amounts are \$3,050 for single and \$6,150 for family coverage. The beauty of the HSA is that unused funds may be rolled over year after year and employers may offer HSAs as an alternative to traditional health plans by paying into the accounts as well. Everyone may participate in an HSA, including people who have no earned income. There is no age limit for withdrawals from the account, as compared to the Traditional IRA which requires minimum distributions at age 70½.

The established HSA account can be funded as often as the holder desires, up to the maximum annual amount allowed by law. It is most effective if the holder contributes a regular amount into

the account and then uses it to pay for doctor visits, prescriptions and other medical care. These accounts may have a nominal monthly cost and earn interest. The preferred tax treatment of the HSA comes with some conditions. There are forms to be filed with the tax returns and employers with plans will include information on the employee W-2s. As long as the account is held and used for medical costs, it is not taxable to the account holder. Use for nonmedical reasons prior to age 65 may be subject to penalties. Taxpayers should retain all receipts as proof that spending is approved healthcare costs. Other restrictions may apply.

7. NOL – 5 Year Carry Back for Business – Extended 1 Year (2008 – 2009)

The new NOL carryback provision benefits businesses experiencing financial difficulty by expanding their ability to use net operating losses attributable to 2008 or 2009. Taxpayers can elect to carry back a 2008 or 2009 NOL for three, four, or five years, instead of the normal two years. The tax advantage of the extended carryback period is tempered by a limitation of the NOL amount that can offset income from the fifth tax year proceeding the loss year. Under the new law, the amount of any NOL that can be carried back to that fifth out year cannot exceed 50 percent of the taxpayer's taxable income for such a fifth year. Taxpayers can make the election under the new law for only one year, either for 2008 NOLs or 2009 NOLs, but not for both. Qualifying small businesses (those with \$15 million or less in gross receipts) that have elected the five-year carryback for 2008 NOLs under the 2009 Recovery Act, under which no 50 percent limitation is imposed for the fifth carryback year, are allowed to elect a five-year carryback of their 2009 NOLs under the new law as well.

Taxpayers that qualify for the extended carryback period for applicable NOLs must make an affirmative election to use the longer carryback period. An election to use a four or five-year carryback period for an applicable loss from operations must be made by the due date, including extensions, for filing the return for the taxpayer's last tax year beginning in 2009. Once an election is made, it cannot be revoked.

8. Standard Mileage Rates

	<u>2009</u>	<u>2010</u>
Business miles driven	55 cents	50 cents
Medical or moving miles	24 cents	16.5 cents
Charitable miles	14 cents	14 cents

9. Maximize Retirement Plan Contributions for 2009

Maximizing your retirement plan contribution is the easiest way to defer income. Maximum contribution for 2009 are \$16,500 for 401(k), \$11,500 for SIMPLE plan if you are under age 50 by December 31, 2009. If your will be 50 years old by the end of 2009 tax minimum limits are increased by \$2,500 for SIMPLE and \$5,500 for each of the §401(k), §403(b), and §457 government plan. If you attain age 70½ in 2009, you are not required to take the minimum distribution by April 1, 2010 for IRAs or defined contribution plans §401(k), §403 (a) and (b)

annuity plans, and §457(b) plan. This will help keep your AGI low as your taxable income will not have to absorb a distribution from your retirement account.

10. No Repeal of Federal Estate Tax for 2010

Congress has extended the \$3,500,000 lifetime exclusion for estate purposes for one year, through 12/31/2010. The federal estate tax which had been scheduled to be repealed effective 1/1/2010 has been reinstated for 2010 at the same rates and exemptions currently in place for 2009.

