PKF PERSPECTIVES

HIGHLIGHTS OF THE ECONOMIC STIMULUS ACT OF 2008

On February 13, 2008, the President signed into law the Economic Stimulus Act of 2008 (Stimulus Act). The following are some of the highlights.

YOU MAY BE ENTITLED TO A CASH REBATE

If your 2007 net income tax liability is greater than $600 (filing as an individual) or $1,200 (filing jointly), you may be entitled to the highest rebate under **one** of the following applicable scenarios**.**

If you are an eligible single taxpayer whose 2007 adjusted gross income (AGI) is below $75,000 or joint filer whose 2007 AGI is below $150,000: $600 for a single taxpayer; $1,200 for a joint taxpayer. *AGI = gross income minus adjustments to income.* You may also be entitled to an additional $300 per qualifying child *(see definition on page 2)*.

If you are an eligible single taxpayer whose 2007 AGI is above $75,000 or joint filer whose 2007 AGI is above $150,000: rebate will be reduced by 5% of AGI above $75,000 (or above $150,000 if joint filer).

Example: Your 2007 AGI is $175,000. You are an eligible joint filer with two qualifying children. The basic rebate of $1,200, plus $600 for the two children, for a total of $1,800 will be reduced by 5% of the $25,000 AGI above the cap, or $1,250. **Your rebate will be $1,800 less $1,250 = $550.**

Example: Your 2007 AGI is $200,000. You are an eligible joint filer with two qualifying children. The basic rebate of $1,200, plus $600 for the two children, for a total of $1,800 will be reduced by 5% of the $50,000 AGI above the cap, or $2,500. **Your rebate will be 0.**

Example: Your 2007 AGI is $80,000. You are an eligible single taxpayer, no children. The basic rebate of $600 will be reduced by 5% of the $5,000 AGI above the cap, or $250**. Your rebate will be $350.**

If your 2007 net income tax liability is less than $600 (filing as an individual) or $1,200 (filing jointly), you may be entitled to the highest rebate under **one** of the following applicable scenarios.

If you are an eligible taxpayer (single or joint) whose 2007 net income tax liability is less than $600 (filing as an individual) or $1,200 (filing jointly): the actual amount of your net income tax liability. You may also be entitled to an additional $300 per qualifying child *(see definition on page 2)*.

Example: Your 2007 net income tax liability is $1,000. You are an eligible joint filer with two qualifying children. **Your rebate would be $1,000, plus $600 for the two qualifying children.**

If you are an eligible taxpayer (single or joint) whose qualifying income is at least $3,000: $300 for a single taxpayer; $600 for a joint taxpayer. *Qualifying income is earned income generally, veterans' disability payments (including payments to survivors of disabled veterans), and Social Security benefits.* You may also be entitled to an additional $300 per qualifying child *(see definition on page 2)*.

If you are an eligible taxpayer (single or joint) whose net income tax liability is at least $1 and gross income is greater than the sum of the applicable basic standard deduction amount and one personal exemption (two personal exemptions for a joint return): $300 for a single taxpayer; $600 for a joint taxpayer. You may also be entitled to an additional $300 per qualifying child *(see definition on page 2)*.

An eligible individual who meets the criteria is any individual other than: a nonresident alien, a dependent, or an estate or trust.

The rebate will not be available if your tax return does not include valid Social Security numbers, including for qualifying children.

If you are eligible for a payment, all you have to do is file a 2007 tax return and the IRS will do the rest, said Acting IRS Commissioner Linda Stiff.

Payment of rebates after December 31, 2008 is prohibited.

The amount of rebate (if any) is not includible in gross income nor does it reduce the amount of withholding.

Child Rebates

For purposes of this rebate, a qualifying child must be under the age of 17 as of December 31, 2007. There is no cap on the number of children who can qualify. They must meet the same criteria as for dependency exemption deduction purposes, i.e. must be either:

(1) Taxpayer's son, daughter, stepson, or step-daughter, *or*

(2) Descendent of someone listed in item (1), e.g. taxpayer's grandchild, *or*

(3) Taxpayer's brother, sister, stepbrother, or step-sister, *or*

(4) Descendent of someone listed in item (3), e.g. taxpayer's niece or nephew

Generally, a child of divorced parents is automatically considered the qualifying child of the custodial parent, unless the custodial parent allows the noncustodial parent to claim the child for rebate purposes (IRS Form 8332).

IRS Cautions and Reminders

Payments will be direct deposited for taxpayers selecting that option when filing their 2007 returns. Taxpayers who have already filed with direct deposit will not need to do anything else to receive payment. For taxpayers who have not as yet filed their 2007 returns, the IRS reminds them that direct deposit is the fastest way to get both regular refunds and stimulus payments.

The IRS also released a special version of Form 1040A for recipients of Social Security and certain veterans' benefits and low-income workers who do not normally need to file. You can find a sample at www.irs.gov.

Taxpayers should be alert for tax rebate scams, such as telephone calls or e-mails claiming to be from the IRS and asking for sensitive financial information. The IRS will not call or e-mail taxpayers about these payments, nor will it ask for financial information.

Scam e-mails and information about scam calls can be forwarded to phishing@irs.gov.

BOOSTED SECTION 179 EXPENSING

For tax years beginning in 2008, the Stimulus Act:

(1) Increases the expensing allowance for depreciable business assets from $128,000 to **$250,000**; *and*

(2) Boosts the overall investment phase-out threshold for such expensing allowance from $510,000 to **$800,000**.

The $250,000 and $800,000 are not indexed for inflation.

Under the Stimulus Act, most small businesses with moderate capital equipment needs may be able to claim a full deduction for the cost of business machinery and equipment purchased in 2008, thereby reducing their effective cost for the assets. As an added benefit, there is no alternative minimum tax adjustment for property expensed under Code Section 179.

The Stimulus Act's increase in these limits to $250,000 and $800,000 is a temporary measure that only applies to 2008. Thus, unless there is further legislation, these limits will fall to $125,000 and $500,000 (as adjusted for inflation) for 2009 and 2010, and then to $25,000 and $200,000 for 2011 and afterward.

Illustration 1: In 2008, calendar-year ABC Corp. purchases and places in service $800,000 of expensing-eligible property. It has $1 million of taxable income derived from the active conduct of its trade or business. If it elects to do so, ABC can expense $250,000 of the property because it has not exceeded the investment ceiling amount. The $550,000 balance of its purchases has to be written off over the applicable recovery period.

Illustration 2: In 2008, calendar-year XYZ Corp. buys and places in service $825,000 of expensing-eligible 5-year MACRS property (i.e. Code Section 179 property). Because it has exceeded the investment ceiling amount, XYZ may expense $225,000 of its 2008 purchases [$250,000 – ($825,000 – $800,000)] and must depreciate the $600,000 balance of its purchases over a period of years.

The increased expensing and ceiling limits under the Stimulus Act also affect the special expensing rules for empowerment zone property, renewal property, and GO Zone property. Thus, the expensing allowance for qualified GO Zone property is $350,000 for 2008 ($250,000 + $100,000), and the investment ceiling limit is $1,400,000 for 2008 ($800,000 + $600,000). The expensing allowance for qualified enterprise zone and renewal property is $285,000 for 2008 ($250,000 + $35,000), with only 50% of the property taken into account in applying the investment ceiling limit.

BONUS FIRST-YEAR DEPRECIATION

The Stimulus Act generally permits a bonus first-year depreciation deduction of 50% of the adjusted basis of certain qualified property acquired and placed in service after December 31, 2007 and before January 1, 2009. The adjusted basis of qualified property is reduced by the additional 50% depreciation deduction before computing the amount otherwise allowable as a depreciation deduction for the tax year and any later tax year.

Illustration 1: On March 1, 2008, a calendar-year business bought and placed in service $500,000 of five-year MACRS property. Applying the half-year depreciation convention, the first-year depreciation allowance under pre-Act law would be $100,000 (20%). Under the Stimulus Act, the Company may claim a first-year depreciation allowance of $300,000 [$500,000 x .50 = $250,000 + ($500,000 – $250,000 x .20 = $50,000)].

If Code Section 179 expensing is claimed on qualified property, the amount expensed "comes off the top" before the additional 50% first-year depreciation allowance is computed. Then the taxpayer computes regular first-year depreciation with reference to the adjusted basis remaining after expensing and after the additional 50% first-year allowance.

Illustration 2: The facts are the same as in the first illustration, except that under the Stimulus Act's enhanced expensing rules, the Company is eligible and elects to expense $250,000 of the cost of assets placed in service on March 1, 2008. The Company may write off $400,000 of the cost of the assets in 2008 [$250,000 expensing + ($500,000 – $250,000 x .50 = $125,000) + ($500,000 – $250,000 – $125,000 x .20 = $25,000)].

The full 50% additional depreciation allowance is available for qualified property whether the half-year or midquarter depreciation convention applies in the placed-in-service year, and may be claimed even if the property is placed in service on the last day of the taxpayer's tax year.

The 50% additional first-year depreciation allowance applies to qualified property unless the taxpayer "elects out". The election out may be made for any class of property for any tax year, and, if made, applies to all property in that class placed in service during the tax year.

Two situations in which a taxpayer might, for a tax year, consider making an election-out for one or more classes are:

(1) where the taxpayer has "about-to-expire" net operating losses, and

(2) where the taxpayer anticipates being in a higher bracket in future years.

Caution: A taxpayer that "elects out" of additional first-year depreciation for a specific class of property is subject to the AMT depreciation adjustment for property in that class. That means that AMT depreciation is computed using the 150% declining balance method (switching to straight-line in the year necessary to maximize the allowance), except that straight-line is used for property for which straight-line depreciation must be used for regular tax purposes. The recovery period is the same for AMT and regular tax purposes.

Eligible Property

In general, property eligible for bonus depreciation consists of:

(1) tangible property with a recovery period not exceeding 20 years;

(2) purchased computer software;

(3) water utility property; and

(4) qualified leasehold improvement property.

Bonus depreciation will be allowed for alternative minimum tax (AMT) as well as for regular tax purposes.

First-Year Depreciation Dollar Cap Raised for New Passenger Autos

For autos placed in service in 2007, the dollar cap on first-year depreciation (i.e., for the placed-in-service year) is $3,060. The dollar cap for light trucks or vans (passenger autos built on truck chassis, including minivans and sport-utility vehicles [SUVs] built on a truck chassis) is $3,260 for the placed-in-service year.

The Stimulus Act increases by $8,000 the first-year depreciation dollar limit for a passenger auto that is "qualified property" that meets the original use and acquisition and placed-in-service requirements.

In other words, assuming that the inflation-adjusted dollar caps for 2008 are the same as for 2007, the maximum first-depreciation allowance is $11,060 ($3,060 + $8,000) for a new passenger auto acquired and placed in service in 2008, and used entirely for business; for a light truck or van the limit is $11,260 ($3,260 + $8,000).

Caution: A passenger auto must be used more than 50% for trade or business purposes in order to be eligible for additional first-year depreciation amount.

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For the full text of the Economic Stimulus Act of 2008, you can go to www.govtrack.us, search "Bills & Votes", enter HR 5140.

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