

## TALKING POINTS

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*The following is a special newsletter highlighting some special tax breaks available in 2009. Please call our office for more information about year-end tax planning.*

### Act now to benefit from expiring tax breaks

Year-end tax planning could be especially critical this year since there are a host of tax breaks that may not be around next year unless Congress acts to extend them. For individuals, these breaks include:

- ◆ the option to deduct state and local sales and use taxes instead of state income taxes;
- ◆ the standard or itemized deduction for state sales tax and excise tax on the purchase of motor vehicles; and
- ◆ the above-the-line deduction for qualified higher education expenses; and
- ◆ tax-free distributions by those age 70 1/2 or older from IRAs for charitable purposes.

For businesses, tax breaks that are available through the end of this year but won't be around next year unless Congress acts include:

- ◆ 50 percent bonus first year depreciation for most new machinery, equipment and software;
- ◆ an extraordinarily high equipment \$250,000 Section 179 expensing option;
- ◆ the research tax credit;
- ◆ the five-year write-off for most farm equipment; and
- ◆ the 15-year write-off for qualified leasehold improvements, qualified restaurant buildings and improvements and qualified retail improvements.

Additionally, alternative minimum tax (AMT) exemption amounts for individuals are scheduled to drop drastically next year without Congressional "extender" legislation, which has come at the 11th hour for several years. Most nonrefundable personal credits won't be available to offset the AMT.

#### What you can do

**Homeowners** who make energy saving improvements to the residence, such as putting in extra insulation or installing energy saving windows, can qualify for a tax credit. Substantial tax credits are available for installing energy generating equipment (such as solar electric panels or solar hot water heaters) to your home.



**Businesses** should consider making expenditures that qualify for the business property expensing option, which is up to \$250,000 for assets bought and placed in service this year; the maximum expensing amount will drop to \$134,000 for assets bought and placed in service next year (higher expensing amounts apply in certain specialized situations). Businesses also should consider making expenditures that qualify for 50 percent bonus first year depreciation if bought and placed in service this year. This bonus write-off generally won't be available next year.

**Investors** can also save gift and estate taxes by making gifts sheltered by the annual gift tax exclusion before the end of the year. You can give \$13,000 in 2009 to an unlimited number of individuals but you can't carry over unused exclusions from one year to the next.

If you are age 70 1/2 or older, own IRAs (or Roth IRAs), and are thinking of making a charitable gift, consider arranging for the gift to be made directly by the IRA trustee. Such a transfer, if made before year-end, can achieve important tax savings.

#### Homebuyers get credit

There have also been some changes to tax

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credits implemented for homebuyers.

Four of those changes are:

**First:** The homebuyer credit has been extended and liberalized to apply to a principal residence bought before May 1, 2010. The homebuyer credit also applies to a principal residence bought before July 1, 2010, by a person who enters into a written binding contract before May 1, 2010, to close on the purchase of the principal residence before July 1, 2010.



In general, a home is considered bought for credit purposes when the closing takes place. So the extra two months (May and June of 2010) helps buyers who find a home they like but can't close on it before May 1, 2010. They can go to contract on the home before May 1, 2010, close on it before July 1, 2010, and get the homebuyer credit (if they otherwise qualify). Note that certain service members on qualified official extended duty service outside of the U.S. get an extra year to buy a qualifying home and get the credit; they also can avoid the recapture rules under certain circumstances.

**Second:** Existing homeowners who are "long-time residents" may claim the homebuyer credit. For purchases made after Nov. 6, 2009, you can claim the homebuyer credit if you (and, if married, your spouse) maintained the same principal residence for any five-consecutive year period during the eight-years ending on the date that you buy the subsequent principal residence. For example, if you and your spouse are empty nesters who have lived in your suburban home for the past 10 years, you are potentially eligible for the credit if you "move down" and buy a smaller townhome.

There's no requirement for your current home to be sold in order to qualify for a homebuyer credit on the replacement principal residence. Thus, the replacement residence can be bought to beat the new deadlines before the old home is sold. For that matter, you can hold on to your prior principal residence in the hope of achieving a better selling price later on.

The maximum allowable homebuyer credit for qualifying existing homeowners is \$6,500 (\$3,250 for a married individual filing separately) or 10 percent of the purchase price of the subsequent principal residence whichever is less.

**Third:** The homebuyer credit is available to higher income taxpayers. For purchases after Nov. 6, 2009, the homebuyer credit phases out over much higher modified AGI levels, making the credit available to a much bigger pool of buyers. For individuals, the phase-out range is between \$125,000 and \$145,000, and for those filing a joint return, it's between \$225,000 and \$245,000.

**Fourth:** There's a new home-price limit for the homebuyer credit. For purchases after Nov. 6, 2009, the homebuyer credit cannot be claimed for a home if its purchase price exceeds \$800,000. It's important to note that there is no phase-out mechanism. A purchase price that exceeds the \$800,000 threshold by even a single dollar will cause the loss of the entire credit. The new purchase price limitation applies whether you are buying a first-time principal residence or you are a qualifying existing homeowner purchasing a replacement principal residence.

#### **Follow the rules**

Within these homebuyer credit changes are a number of new anti-abuse rules to prevent taxpayers from claiming the homebuyer credit even though they don't qualify for it. The most important of these are as follows:

- ◆ Beginning with the 2010 tax return, the homebuyer credit can't be claimed unless the taxpayer attaches to the return a properly executed copy of the settlement statement used to complete the purchase of the qualifying residence.
- ◆ For purchases after Nov. 6, 2009, the homebuyer credit can't be claimed unless the taxpayer has attained 18 years of age as of the date of purchase (a married person is treated as meeting the age requirement if he or his spouse meets the age requirement).
- ◆ For purchases after Nov. 6, 2009, a taxpayer cannot claim the homebuyer credit if they can be claimed as a dependent by another taxpayer for the tax year of purchase. It also can't be claimed for a home bought from a person related to the buyer or the spouse of the buyer, if married.
- ◆ Beginning with 2009 returns, the new law makes it easier for the IRS to go after questionable homebuyer credit claims without initiating a full-scale audit.