

the Competitive Edge

The American Recovery and Reinvestment Tax Act of 2009

The American Recovery and Reinvestment Tax Act of 2009 (the “Act”) was enacted on February 17, 2009, and contains several federal tax provisions aimed at stimulating the economy and providing job creation. Both individual taxpayers and businesses stand to benefit from the tax-relief measures in the Act.

Many of the Act’s individual income-tax provisions contain income phaseouts that limit the benefits available to higher-income taxpayers. The Act is designed to provide temporary tax relief in an effort to spur spending. Following is a summary of the law’s provisions.

Individual Tax Relief

- **“Making Work Pay” Credit.** This refundable tax credit (up to \$400 for individuals, \$800 for couples filing jointly) seeks to stimulate spending by generally providing an increase in take-home pay through the reduction of income taxes withheld.
- **Economic Recovery Payment.** A one-time payment of \$250 is available to adults who are eligible for Social Security, Railroad Retirement, veterans’ disability compensation or pension benefits, or Supplemental Security Income benefits.
- **First-Time Homebuyer’s Credit.** Increased to \$8,000 for couples filing jointly, the Act provides a credit for qualifying principal residence purchases. The Act also eliminates the prior law’s requirement that the credit be paid back to the government, as long as certain conditions are met.



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- **Child Tax Credit.** The Act expands the Child Tax Credit (\$1,000 for 2009 and 2010) for each qualifying child under age 17 by reducing the income “floor” that applies when determining the refundability of the credit from \$8,500 in 2008 to \$3,000 in 2009 and 2010.
- **AMT Exemption Increase.** The Act increases the Alternative Minimum Tax exemption amounts for 2009 and provides for the use of various nonrefundable tax credits to offset both regular tax and AMT.
- **Private Activity Bond Interest and AMT.** Tax-exempt interest on private activity bonds issued in 2009 or 2010 is not deemed an AMT preference item.
- **Deduction for Taxes on Car Purchases.** The Act provides for an income-tax deduction for state and local sales taxes paid on up to \$49,500 of the cost of a qualified vehicle.
- **American Opportunity Tax Credit.** The Hope Scholarship credit is modified and replaced with the American Opportunity Tax Credit, which equals up to \$2,500 for the cost of qualifying tuition and related expenses (per year, per student).
- **529 Plans and Computer Costs.** The Act expands the definition of qualified higher education expenses to encompass certain computer technology for 529 college savings plan distribution purposes.

- **Transportation Fringe Benefits.** Employees can exclude from income an increased amount of certain qualified transportation fringe benefits under the Act.
- **COBRA Insurance Continuation.** Under the Act, an individual who has been involuntarily terminated on or after September 1, 2008, through the end of 2009 is required to pay only 35% of the group health insurance premium to secure COBRA continuation coverage (for up to nine months).
- **Income Exclusion for Unemployment Compensation.** Federal and state unemployment benefits received (up to \$2,400) in 2009 may be excluded from gross income.

Business Tax Relief

- **Section 179 Expensing.** The Act extends the enhanced Section 179 expensing limit (\$250,000) for qualifying property placed in service in tax years beginning in 2009.
- **“Bonus” First-Year Depreciation.** The additional first year depreciation deduction of 50% available for certain types of depreciable property is generally extended for another year.
- **Net Operating Loss (NOL) Carryback.** Smaller business taxpayers may elect to increase the NOL carryback period from two to five years for an NOL for the tax year ending in 2008 (or, at the taxpayer’s election, the tax year beginning in 2008).

- **Work Opportunity Tax Credit (WOTC).** Two new targeted groups have been included for purposes of the WOTC: disconnected youths and unemployed veterans. The amount of the credit that an employer may claim is based on first-year wages.
- **Small Business Estimated Tax Payment Relief.** Generally, for tax years beginning in 2009, the Act eases the annual estimated tax payment requirements for certain small business owners.
- **Qualified Small Business Stock (QSBS).** The Act generally increases to 75% the percentage of capital gain that a non-corporate taxpayer can exclude upon the disposition of QSBS acquired after February 17, 2009, and prior to 2011.
- **S Corporation Built-In Gains.** The Act temporarily reduces the recognition period for a converted C corporation on built-in gains from ten to seven years for tax years beginning in 2009 and 2010.

Doeren Mayhew Can Help

The American Recovery and Reinvestment Tax Act of 2009 provides a number of tax-planning opportunities for individuals and businesses. This summary covers only the tip of the iceberg as to the new law. Please contact the professionals at Doeren Mayhew at (248) 244-3000 to help determine how the Act’s measures relate to your specific tax situation.

IRS Eases Investment Rules for 529 College Savings Plans

Saving for college is always difficult and is even more so during the current economic downturn. One of the most popular college savings plans are so-called “529 plans.” The IRS recently announced that participants in 529 plans will be able to change their investments more often in 2009 than in past years. The IRS will allow a change in investment strategy twice in 2009. This is good news for 529 plan participants, especially those who may otherwise be locked into a mix of investments that has turned out to be more speculative than initially contemplated.

Tax-Free Distributions

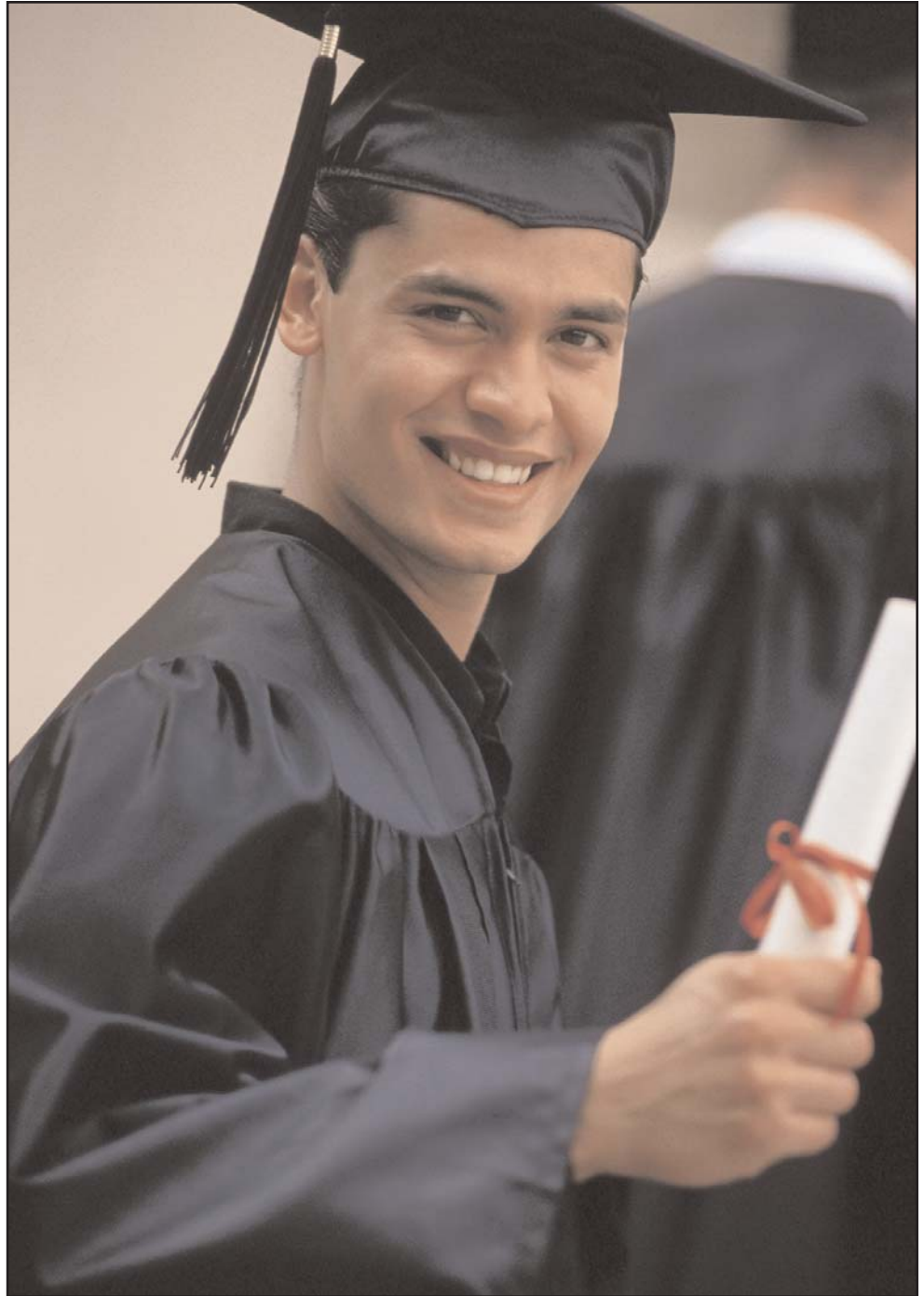
A 529 plan is a type of qualified tuition program. In a 529 plan, taxpayers contribute to an account established for paying a student’s educational expenses. Eligible educational expenses include the costs of tuition, books, and fees at eligible institutions, such as colleges, vocational schools, and other post-secondary institutions.

Contributions to 529 plans are not tax-deductible. However, earnings are tax-free, and distributions used to pay the beneficiary’s qualified education expenses are tax-free.

A 529 plan should not be confused with a Coverdell Educational Savings Account (Coverdell ESA). The latter is also a savings account for education expenses that offers tax-free distributions. Funds saved in a Coverdell ESA can be used for elementary and secondary school expenses as well as college costs.

Investment Decisions

Generally, participants in 529 plans must select only from among broad-based investment strategies designed exclusively by the program. Additionally, the IRS has traditionally permitted a change in investment strategy only once a year.



In response to the economic slowdown and the turmoil in the financial markets, the IRS will allow investments in a 529 plan to be changed during 2009 on a more frequent basis. A 529 plan will not violate the investment restriction if it permits a change in the investment

strategy twice in calendar year 2009, as well as upon a change in the designated beneficiary of the account.

If you have any questions about 529 plans, or other tax incentives for education, please contact our office at (248) 244-3000.

How NOLs Can Give Your Business a Boost

With the economic downturn taking its toll on almost all facets of everyday living, from employment to personal and business expenditures, your business may be losing money as well. As a result, your business may have a net operating loss (NOL). Although no business wants to suffer losses, there are benefits to having an NOL for tax purposes. Your business can use the NOL in future years to offset its taxable income. Your business can also use an NOL to offset income from the prior two years; in this type of “carryback” situation, it can mean an immediate tax refund to help with current operating expenses.

NOLs, Generally

A trade or business has an NOL when its allowable deductions exceed its gross income for the tax year. A business can have an NOL whether it is a corporation, partnership, or sole proprietorship. For example, NOLs can be generated if you operate a trade or business as a sole proprietorship that is taxed to the individual.

Deductible Expenses for Computing NOLs

Generally, business deductions are those deductions related to a taxpayer’s trade or business or employment. For this purpose, the following types of losses are considered business deductions that can be used to compute an NOL:

- Losses from the sale or exchange of depreciable or real property used in the taxpayer’s trade or business, including Code Sec. 1231 property;
- Losses attributable to rental property;
- Losses incurred from the sale of stock in a small business corporation or from the sale or exchange of stock in a

small business investment company, to the extent that these types of losses qualify as ordinary losses;

- Losses on the sale of accounts receivable (but only if the taxpayer uses the accrual method of accounting); and
- Business losses from a partnership or S corporation.

In addition, the following expenses are considered business deductions for purposes of computing an NOL:

- Personal casualty and theft losses and non-business casualty and theft losses from a transaction entered into for profit;
- Moving expenses;
- State income tax on business profits;
- Litigation expenses and interest on state and federal income taxes related to a taxpayer’s business income;
- The deductible portion of employee expenses, such as travel, transportation, uniforms, and union dues;
- Payments by a federal employee to buy back sick leave used in an earlier year;
- Unrecovered investment in a pension or annuity claimed on a decedent’s final return; and
- Deduction for one-half of the self-employment tax.

Carryback and Carryforward Rules

Generally, an NOL must be carried back and deducted against taxable income in the two tax years before the NOL year before it can be carried forward and applied against taxable income, up to 20 years after the NOL year. An NOL must be used in the earliest year available; however, you can waive the use of the carryback period and immediately carry the NOL

forward. To claim an NOL carryback, an individual or a corporation must file an amended return within three years of the year the NOL was incurred.

Generally, the carryback and carryforward periods cannot be extended. Any NOL remaining after the 20-year carryforward period will be lost. However, you may be able to use an expiring NOL in the final year by accelerating the recognition of income.

The new law provides a five-year carryback of 2008 NOLs but only for qualified small businesses with average gross receipts of \$15 million or less. The new law gives these businesses the choice to carry back NOLs three, four, or five years. The new treatment will apply only to NOLs for any tax year beginning or ending in 2008. The normal NOL carryback period, which is two years for all businesses, returns for NOLs incurred in 2009.

Partnerships and S Corporations

If your business operates as a partnership or an S corporation, the NOL flows through to the partners or shareholders who can use the NOL to offset other business and personal income. The S corporation or partnership itself cannot use the NOL.

Individuals

Individuals may have an NOL not only from business losses but from other expenses, although this is less common. In addition to business losses, an individual includes in his or her NOL computation the following deductions:

- Employee business expenses;
- Casualty and theft;
- Moving expenses for a job relocation; and
- Expenses of rental property held for the production of income.

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Doeren Mayhew Gets Casual for a Cause

Even during these tough economic times, Doeren Mayhew's employees continue to show their generosity and support for various local and national charities and foundations.

In December 2008, Doeren Mayhew announced that the last Friday of each month has been designated as "Jeans Day." For a \$5.00 minimum donation, employees are allowed to wear their jeans at the office. Doeren Mayhew will then match the total employee contribution and donate all monies to a specific charity or foundation. A different charity will be selected each month.

Since the inception of the "Jeans Day" program, Doeren Mayhew and its employees have donated over \$2,500. Charitable organizations that

have benefited from the money raised through the program to date include the American Heart Association, the Karmano's Cancer Institute, the Alzheimer's Association, and the Rainbow Connection.

Mark Crawford, Managing Director, stated, "Charitable efforts like these are a positive way for any company to bring employees and management together. It just makes people feel good that even \$5.00 can help make a



difference. Every little bit helps – especially in these challenging economic times."