

## What You Need To Know About The Economic Stimulus Act

As you probably know, Congress recently passed an economic stimulus package (the Economic Stimulus Act of 2008) which is intended to jump-start our economy in several ways. The most publicized method is being to provide tax rebates to individual taxpayers. In addition, some lesser publicized business incentives aimed at encouraging businesses to increase their investments for new equipment by the end of 2008 has been enacted. Under the Act, small businesses will be able to write off up to \$250,000 of qualifying expenses in 2008. In addition, businesses will be able to deduct an additional 50% of the cost of certain investments in 2008.

**Recovery rebate credit.** Early in May the IRS began issuing rebate credits of \$1,200 for married taxpayers and \$600 for single taxpayers. Dependents of such taxpayers will receive an additional \$300 per dependent. Such payments will phase out for so called "high income" individuals that have over \$150,000 of combined income, if married, or \$75,000 of income, if single.

**Analysis:** For many dealers this will be of little or no value personally...unless a dealer can legally adjust his taxable income for 2007 or 2008 to be less than these amounts. This may make some planning opportunities available to reduce taxable income for some dealers to take advantage of these refunds. Such planning may be made with regard to adjusting discount rates for RFC sales (to Fair Market Value), reviewing market value write downs of year end inventories (if you are on the "lower of cost or market" method), writing off uncollectible

note receivable accounts or claiming section 179 equipment expensing. Such rebates are not that significant but should be considered especially in cases where a dealer's year justifies that they are close to getting rebates anyway.

**Boosted section 179 expensing.** Under pre-Act law, taxpayers could expense (i.e., deduct currently, as opposed to taking depreciation deductions over a period of years) up to \$128,000 for 2008. This annual expensing limit is reduced by the amount by which the cost of qualifying property placed in service during 2008 exceeds \$510,000. The amount of the expensing deduction is limited to the amount of taxable income from any of the taxpayer's active trades or businesses.

Under the Act, for tax years beginning in 2008, the \$128,000 expensing limit is increased to \$250,000, and the overall investment limit is increased from \$510,000 to \$800,000.

As a result of this incentive, most small businesses will be able to obtain a full deduction for the cost of business machinery and equipment purchased in 2008, thereby reducing their effective cost for those assets. What's more, there is no alternative minimum tax (AMT) adjustment with respect to property expensed under Code Section 179.

**Analysis:** Apparently our congress people want businesses to spend. Remember that if you are not profitable, spending money on equipment will make no sense. If you are profitable, then 2008 is the year to consider purchasing equipment assuming such equipment is going to be

needed for operations over the next year or two.

Such equipment has to be considered tangible personal property to qualify for the expense election. Generally this will be property that can be moved relatively easily. If a cost segregation study is performed, you may have the opportunity to claim section 179 expensing for dealership items that may not initially come to mind as equipment. Such items may include outside light poles and fixtures, vehicle display stands, decorative lighting inside, special wiring done for specific vehicle service equipment, etc.

The limits on total qualifying property purchased and the expense limit are tested as combined basis for companies under common control. Common control will vary based on the specific entity types and ownership structures, but usually will include companies that have 80 percent similar ownership.

**Bonus depreciation makes a comeback.** Bonus first year depreciation was first allowed following the terrorist attacks of 2001 but generally isn't available for property acquired after 2004.

The Act provides for bonus (accelerated) depreciation by allowing a bonus first-year depreciation deduction of 50% of the adjusted basis of qualified property placed in service after December 31, 2007, and, generally, before January 1, 2009. The basis of the property and the depreciation allowances in the year the property is placed in-service and later years are appropriately adjusted to reflect

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the additional first-year depreciation deduction. The taxpayer may elect out of additional first-year depreciation for any class of property for any taxable year.

The interaction of the additional first-year depreciation allowance with the otherwise applicable depreciation allowance may be illustrated as follows.

Example: Assume that in 2008 a dealer purchases new depreciable property and places it in service.

The property's cost is \$1,000 and is a 5-year property subject to the half-year convention. The amount of additional first-year depreciation allowed under the provision is \$500. The remaining \$500 of the cost of the property is deductible under the rules applicable to a 5-year property. Thus, 20 percent, or \$100, is also allowed as a depreciation deduction in 2008. Accordingly, the total depreciation deduction with respect to the property for 2008 is \$600. The remaining \$400 cost of the property is recovered under otherwise applicable rules for computing depreciation. In other words, property purchased, that qualifies, will have about 60% of the cost written off in the first year.

Bonus depreciation is allowed for Alternative Minimum Tax (AMT) purposes as well as for regular tax purposes.

**Analysis:** Some items that you may not originally think of at your dealership should qualify for this acceleration of depreciation. Items such as landscaping, 'canned' computer software, parking lots, and decorative tile or carpeting. Gas stations and car washes should also qualify for such depreciation.

Dealers that are considering leasing facilities and making leasehold improvements to the facilities leased may also qualify to claim this accelerated write off. Generally leasehold improvements made to a dealers facility, that is rented to the dealer's dealership will not qualify for the accelerated depreciation based on limitations present in the Act.

Automobiles have special rules that generally limit the amount that may be expensed for section 179 and bonus depreciation. For further details regarding your particular vehicle and situation, please contact your local Auto Team America member today.

## 2008 Is The Year To Buy A Business Automobile

Under the Economic Stimulus Act of 2008, businesses that purchase automobiles in 2008 may take substantially higher depreciation deductions in the first year of ownership than previously allowed (or that will be allowed in 2009 or after).

Vehicles are generally depreciated over five years under the double-declining balance method of depreciation. Most taxpayers use a half-year convention; therefore, the most a taxpayer may deduct in the year of purchase is one-half of the available double-declining rate. In the first year, that rate is 40 percent. Therefore, taxpayers are limited to deduct 20 percent of the cost of a vehicle in the first year. This amount is further limited if the automobile is subject to the "luxury" automobile limitations. Cars weighing less than 6,000 pounds are limited to a first-year deduction of \$2,960, and trucks weighing the same are limited to a deduction of \$3,060.

For one year only, new vehicle purchasers may deduct 50 percent of the cost of the vehicle off the top plus the normal 20 percent of the remaining balance in 2008. Luxury

auto limitations are increased almost four-fold to \$10,960 for cars and \$11,160 for light-duty trucks.

To demonstrate the potential tax savings, assume that a taxpayer purchases a new vehicle weighing less than 6,000 pounds for \$30,000 in 2008. The taxpayer will deduct an additional \$8,000 of depreciation expense in 2008, as follows: In 2008, the taxpayer is eligible to deduct \$15,000 of bonus depreciation on the vehicle. Because the luxury auto limitation applies, the taxpayer will deduct the maximum amount of \$10,960. In 2009, however, the taxpayer will not be eligible for the bonus depreciation, and the luxury auto limitations will return to \$2,960 for cars. Although the taxpayer is eligible to deduct 20 percent of the cost of the vehicle, or \$6,000, he will only be allowed to deduct the maximum amount of \$2,960. The taxpayer greatly benefits from taking advantage of the increased deduction available in 2008.

For further information, please contact your local Auto Team America member today!!

## TAX TIP New Tax Credit for First-Time Homebuyers

The "Housing Assistance Tax Act of 2008" was passed by the House of Representatives on July 23 by a vote of 272-152, and likely will be passed by the Senate on July 26. The Administration has dropped its earlier opposition to the measure and says the President will sign H.R. 3221 into law. The sweeping measure is designed to shore up the ailing housing market as well as tighten lending practices and reform financial institutions associated with the market.

The Act gives eligible first-time homebuyers a refundable tax credit equal to the lesser of 10% of the purchase price of a principal residence or \$7,500 (\$3,750 for married individuals filing separately). The credit, which is generally allowed for the tax year in which the principal residence is bought, phases out for individual taxpayers with modified adjusted gross income (AGI) between \$75,000 and \$95,000 (\$150,000-\$170,000 for joint filers) for the year of purchase. A taxpayer is considered a first-time homebuyer if he (or spouse, if married) had no present ownership interest in a principal residence in the U.S. during the 3-year period before the purchase of the home to which the credit applies.

Because only prior ownership in a principal residence is considered, it's possible for a taxpayer who already owns a vacation home to claim the new credit, if he otherwise qualifies. For example, a taxpayer whose principal residence for at least three years has been a rental apartment in the city, and who owns a seaside home he inherited from his parents, could claim the credit for the purchase of a new principal residence if his modified AGI doesn't exceed the phase-out levels.

Any home purchase (including, presumably, coops and condos) qualifies as long as the property isn't acquired from a person related to the buyer. A home under construction by a taxpayer is treated as purchased by him on the date he first occupies it.

**Regular recapture rule.** The credit for new homebuyers is recaptured ratably over fifteen years, with no interest charge, beginning with the second tax year after the tax year in which the home is purchased. For each tax year of the 15-year recapture period, the credit is recaptured as an additional income tax amount equal to 6 2/3% of the amount of the credit. In other words, the credit for new homebuyers is, as a practical matter, the equivalent of an interest-free loan from the government.

**Accelerated recapture rule.** If a taxpayer who claims the credit for new homebuyers sells the home (or he or his spouse no longer use it as a principal residence) before complete repayment of the credit, any remaining credit repayment amount is paid with the tax return for the year in which the home is sold (or ceases to be used as the principal residence). However, the credit repayment amount can't exceed the gain from the sale of the residence to an unrelated person. For this purpose, gain is determined by reducing the home's basis by the amount of the credit to the extent not previously recaptured.

Neither the regular nor the accelerated recapture rules apply to any tax year ending after the taxpayer's death of death. Additionally, if the home is involuntarily converted (e.g., it's destroyed in a storm), and the taxpayer buys a new principal residence within a two year period beginning on the date of the disposition or the date the home ceases to be the principal residence), (1) the accelerated recapture rule does not apply, but (2) the regular recapture rule applies to the replacement principal residence during the recapture period in the same way as if the replacement principal residence were the converted residence.

In the case of a transfer of the residence to a spouse or to a former spouse incident to divorce, the accelerated recapture rule won't apply to the transfer, but both the regular and accelerated recapture rules will apply to transferee spouse (and not the transferor spouse) who will be responsible for any future recapture.

**Effective date.** The new homebuyer credit applies for qualifying home purchases after Apr. 8, 2008 and before July 9, 2009. This applies whether or not there was a binding contract to purchase the home before Apr. 9, 2008.

**Election for 2009 buyers to accelerate credit into 2008.** Eligible first-time homebuyers who purchase a principal residence after Dec. 31, 2008, and before July 1, 2009, may elect to treat the purchase as made on Dec. 31, 2008. The election effectively allows eligible first-time homebuyers who make a timely purchase in 2009 to claim the credit on their 2008 returns rather than on their 2009 returns.