

Tax Compliance & Planning TRENDS

The Worker, Homeownership & Business Assistance Act Extends Unemployment Benefits, Tax Credits & NOL Carryback Options

Congress signed into law November 6, 2009, The Worker, Homeownership and Business Assistance Act of 2009, extending unemployment benefits, the homebuyers and homeowners tax credit and the five-year net operating loss carryback election for businesses. This edition of Tax Compliance & Planning Trends presents the impact of the law on homebuyers and businesses.

Homebuyers Credit

The Worker, Homeowner & Business Assistance Act (WHBAA) has extended the credit to first time home purchases made before May 1, 2010. Furthermore, if a binding contract is in place before May 1 and scheduled to close before July 1, the credit extends through July 1, 2010.

Background on the Homebuyers Credit

Last year, a refundable tax credit equal to 10 percent of the purchase price of a principal residence was made available to qualified first-time homebuyers. This credit was set to expire July 1, 2009, and generally required repayment. But in February the American Recovery and Reinvestment Act of 2009 extended its availability to purchases made before December 1, 2009, and generally removed the repayment obligation for qualifying purchases after December 31, 2008.

Provisions

First Time Homebuyers

The maximum credit remains at \$8,000 (\$4,000 for married filing separately) for first-time homebuyers. For purposes of the credit, a first-time homebuyer is someone who has had no ownership interest in a principal residence in the United States during the prior three-year period.

Long Time Homeowners

In addition, WHBAA *expands* the credit to many *long-time* homeowners purchasing a subsequent home. The maximum credit for these taxpayers is \$6,500 (\$3,250 for married filing separately). To qualify, the homeowner must have maintained the same principal residence for any five-consecutive-year period during the eight-year period ending on the purchase date of a subsequent principal residence.

Phase-Out Ranges Increased

WHBAA significantly increases the modified adjusted gross income (MAGI) phase-out ranges for the credit. For qualifying purchases made after November 6, 2009, the phase-out range is \$225,000-\$245,000 for joint filers; \$125,000-\$145,000 for single filers.

New Limitations

Effective for purchases made after November 6, 2009, *no* credit is allowed if:

- The home's purchase price exceeds \$800,000 (regardless of regional market factors)
- The homebuyer (or his or her spouse) is related to the seller
- The homebuyer is under age 18 on the date of purchase (unless his or her spouse meets the age requirement)
- The homebuyer is the dependent of another taxpayer.

NOTE: There are other expansions, enhancements and limitations in addition to those noted here, so consult your Heffler, Radetich & Saitta tax representative to determine whether you're eligible for the credit.

Please turn to next page for information on the Net Operating Loss Carryback Option

Net Operating Loss Carryback Option Expanded

Generally, when business deductions exceed gross income, the difference is Net Operating Loss (NOL) for tax purposes and may be carried back two years to offset income. This generates a tax refund, providing a cash infusion in times of loss. Any loss that is not absorbed is carried forward up to 20 years.

Background

The American Recovery and Reinvestment Act of 2009 allowed taxpayers to elect to carry back 2008 NOLs from qualifying small businesses (businesses with average gross receipts of \$15 million or less for the three years ending with the loss year) for three, four or five years instead of two years. The new Worker, Homeownership and Business Assistance Act of 2009 expands the longer carry-back option to businesses that do not qualify as small and extends it to 2009 NOLs.

Provisions

Under WHBAA, generally taxpayers can apply the longer carryback to only one tax year's NOL and to offset only 50 percent of income in the fifth year back, 10 percent in the other four years. For qualifying small businesses, taxpayers can apply the longer carryback to both 2008 *and* 2009 NOLs, and the 50percent limit applies only to 2009 NOLs. Taxpayers also have the option to use the normal two-year carryback or to waive the carryback period entirely and carry the loss forward.

Tax Saving Opportunities

The extension and expansion of the homebuyers' credit and the five-year NOL carryback option could provide valuable tax-saving opportunities. Please refer to the article on *The American Recovery and Reinvestment Act of 2009* and speak with your Heffler, Radetich & Saitta LLP tax representative to determine how the WHBAA may impact your financial and tax planning strategy.