Adelman Katz & Mond LLP

Analysis

Review of the Economic Stimulus Act of 2008

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On February 13, 2008, President Bush signed the Economic Stimulus Act of 2008 into law. The law was passed in response to the anticipated recession as well as the subprime mortgage crisis. The aim of this bill is to increase consumer and business spending as well as provide relief for the victims of the subprime mortgage crisis.

The Economic Stimulus Act of 2008 has three main aspects:

1) Tax Rebates
2) Business Tax Incentives
3) Increased Mortgage Limits

TAX REBATES

The tax rebates are the centerpiece of the Economic Stimulus Act of 2008. Most individuals will receive a rebate check sometime during 2008 from the U.S. Treasury. The amount will be based on filing status and income on the 2007 return. The rebate consists of two basic elements:

1) Basic credit
2) Additional credit for qualifying children

An eligible individual will receive a basic credit amount equivalent to the greater of:

1) net income tax liability up to a maximum of $600 ($1,200 for a joint return);

Or

2) $300 ($600 for a joint return) if either (a) the taxpayer's "qualifying income" is at least $3,000; or (b) his 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.)

For the purposes of the Economic Stimulus Act, qualifying income includes:

(1) earned income;
(2) Social Security benefits (as defined in Code Sec. 86(d)); and
(3) any compensation or pension received under chapter 11 (compensation for service-connected disability or death), chapter 13 (dependency and indemnity compensation for service-connected deaths), or

chapter 15 (pension for non-service-connected disability) of title 38, U.S. Code. (Code Sec. 6428(e)(3))

Nonresident aliens, estates or trusts, and dependents are not eligible for the rebate.

An individual who is eligible for any amount under the base credit may also meet the criteria for a qualifying child credit. The Economic Stimulus Act provides an additional $300 for each qualifying child. A qualifying child must have the same principal residence as the taxpayer for more than half the tax year, satisfy a relationship test, and must not have provided more than half of his or her own support for the year.

A child who is not a citizen, national, or resident of the U.S. can't be a qualifying child. The qualifying child must meet the same requirements for the rebate as it does for the child tax credit.

Phaseout

The amount of the recovery rebate credit (both the basic and the child's amount) is reduced (but not below zero) by 5% of a taxpayer's adjusted gross income (AGI) above $75,000 ($150,000 for joint returns.)

The following examples were provided by the Research Institute of America and the U.S. Treasury:

Illustration 1:

A married couple filing jointly with one child has earned income of $4,000, and no net tax liability. Their rebate is $900: ($600 basic + $300 child rebate.).

Illustration 2:

A head of household has $4,000 in earned income, one qualifying child, and no net tax liability before applying refundable credits and the child credit. He or she receives a rebate of $600 ($300 + $300 for the child.)

Illustration 3:

A married couple filing jointly has $40,000 in earned income, two qualifying children, and a net tax liability of $1,573 before refundable credits and the child credit are applied (their actual tax liability after the child credit is –$427). They get an $1,800 rebate: [$1,200 + ($300 × 2 children)].

Illustration 4:

A married couple filing jointly has $2,000 in earned income, one qualifying child, and $1,100 in net tax liability (from other unearned income) before applying refundable credits and the child credit (their actual liability after the child credit is $100). The taxpayers have a $1,400 rebate: ($1,100 basic credit + $300 child rebate).

Illustration 5:

A single taxpayer has $14,000 in Social Security income, no qualifying children, and no net tax liability before the application of refundable credits and the child tax credit. The taxpayer gets a $300 rebate.

BUSINESS TAX INCENTIVES

Section 179 expensing

Section 179 of the United States Internal Revenue Code allows a taxpayer to expense, rather than depreciate the cost of certain new or used tangible personal property that was placed in business during the tax year. These kinds of properties are generally referred to as Section 179 property.

For tax year 2008 ONLY, the Economic Stimulus Act increases the Section 179 amount from $128,000 to $250,000.

For any given tax year, the amount of Section 179 expense is reduced dollar-for-dollar by the amount of Section 179 property placed in service during the tax year in excess of a specified investment ceiling.

For tax year 2008 ONLY, the Economic Stimulus Act increases the investment ceiling from $510,000 to $800,000.

The following examples were provided by the Research Institute of America:

Illustration 1:

In 2008, calendar-year ABX 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, ABX 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 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.

Bonus Depreciation

The cost of most capital assets is able to be recovered by depreciating the value of the property over the cost of its life. The method most often used for depreciating this property is known as MACRS (modified accelerated cost recovery system).

For property placed in service after December 31, 2007 and before January 1, 2009, the economic stimulus act allows for an additional depreciation deduction equivalent to 50% of the adjusted basis of "qualified property."

"Qualified property" for the bonus 50% first-year depreciation must fall into one of these four categories:

(1) Property to which MACRS applies with a recovery period less than or equal to 20 years;

(2) Water utility property

(3) Computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

(4) Qualified leasehold improvement property

Bonus Depreciation for Passenger Automobile

Taxpayers are allowed to depreciate passenger automobiles and light truck or vans used 50% or greater in the course of their business.

The Economic Stimulus Act increases the allowable first-year depreciation for passenger vehicles from $3,060 to $11,060. The Act also increases the allowable first-year depreciation for light truck or vans from $3,260 to $11,260.

INCREASED MORTGAGE LIMITS

Prior to the Economic Stimulus Act, residential mortgages, sometimes referred to as "jumbo mortgages", of up to $417,000($625,000 in Alaska, Hawaii, Guam, and the U.S. Virgin Islands) were eligible for insurance by the Federal Housing Administration (FHA) and for purchase by Fannie Mae and Freddie Mac.

These mortgages were eligible for lower interest rates because of their insurance by FHA. For 2008 ONLY, the Economic Stimulus Act raises the limit of these mortgages to 125% of the median house price in the same metropolitan statistical area or county, up to a maximum of $729,750.

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