

The Obama stimulus package... what it all means.

by Sharon M. Huddle



On February 17, 2009, the economic stimulus package, known as the American Recovery and Reinvestment Act of 2009 (ARRA), was signed into law by President Barack Obama. The act is an unprecedented effort to respond to a crisis unlike any since the Great Depression, and is the administration's attempt to make a down payment on what it views as the challenges facing our country in the global 21st century. The stimulus plan includes measures intended to modernize our nation's infrastructure, enhance energy independence, expand educational opportunities, provide affordable healthcare and provide tax relief for individuals and businesses.

The \$787 billion ARRA contains nearly \$300 billion in tax relief. The new law provides immediate relief to businesses and individuals with tax incentives that will be retroactive to January 1, 2009. Tax breaks geared to the business community are bonus depreciation, hiring incentives, small business-loss write-offs and delayed recognition of cancelled debt.

The ARRA was designed to create or save 3.5 million jobs over the next two years, including 143,000 jobs in Pennsylvania. \$150 billion in funding for all states is intended to jumpstart projects that were set aside due to lack of funding and the current credit crunch.

Significant investment is intended to be made in infrastructure projects, such as safeguarding the roads, bridges, and clean water systems that serve America's businesses and families. Energy, healthcare and education have received substantial attention in the stimulus plan. More than \$11 billion has been allocated to create the smart electric grid for energy efficiency. The healthcare goal is to prevent health-coverage loss and streamline our medical system. Educational tax credits are aimed at helping to make a college education more affordable for potential students.

The Obama Administration hopes that businesses serving these sectors will feel the effect of the dollars spent on energy, healthcare and education by the end of 2009. Using the tax credits and deductions of the stimulus plan, the administration anticipates that businesses will expand their workforce and make capital improvements to meet the returning consumer demand. It also believes the combination of extending present tax deductions and adding more tax credits will bring some immediate relief to company cash flows and position businesses to return to profitable status in the near future.

The ARRA gives companies an increased tax deduction for the purchase of new equipment in 2009. The Code Section 179 expensing amounts, increased to \$250,000 in 2008, will remain at that level through 2009. The investment ceiling will remain at \$800,000. Bonus depreciation was reintroduced in 2008,

allowing 50 percent of the cost of qualifying depreciable property to be expensed in the year of purchase. The ARRA has extended this provision through 2009. Qualified property includes most types of new property, such as equipment, vehicles and computers with depreciable lives of less than 20 years. The ARRA also has increased the regular dollar caps for new passenger vehicles placed in service in 2009. When bonus depreciation is claimed, passenger-vehicle depreciation can be as high as \$8,000 in the first year.

As an incentive to hiring, the Work Opportunity Tax Credit (WOTC) has been expanded beyond the initial nine targeted groups. The WOTC provides businesses with tax credits for hiring individuals from groups with high unemployment rates or other special employment needs. The credit amount is 25 percent of the first \$6,000 in wages if the employee works at least 120 hours, or 40 percent of the first \$6,000 in qualified wages if the employee works 400 hours or more.

The wages of unemployed veterans and disconnected youth can now qualify for the WOTC if they are hired in 2009 or 2010. Qualifying veterans have been discharged from active duty in the U.S. Armed Forces between September 2001 and December 2010 and have received unemployment compensation for at least four weeks within a year of being hired. Disconnected youth are between the ages of 16 and 25 and have not attended school or been regularly employed in the six months to hire. The WOTC is a proactive credit in that documentation needs to be completed and filed when the employee begins work in order to have qualified tax credits when federal returns are filed.

Qualifying WOTC individuals can be found through Workforce Development Departments, veterans' groups, Goodwill and similar not-for-profit organizations.

Businesses with average gross receipts of \$15 million or less that sustained a net operating loss on their 2008 federal tax return may elect to carry back those losses five years. Cash previously paid for federal income tax for those years may be refunded.

Companies with accumulated net operating losses, unused alternative minimum (AMT) and research-and-development credits will be eligible for an immediate cash refund on their credits. The trade-off is electing to forgo bonus depreciation on capital purchases made in 2008 and 2009.

Many business taxpayers are being forced to restructure their debt, but may not be considered as insolvent under IRS code. The ARRA allows taxpayers to spread taxable income associated with the buyback of their own debt at a discount, during 2009 and 2010. Applicable debt instruments would be issued by a company in connection with the operation of a business, such as bonds, debentures, notes or other instruments constituting indebtedness. Deferral of the payment of tax owed is accomplished ratably spreading the income over a five-year period, beginning with the fifth year after the reacquisition has occurred. Income created by the reacquisition of a debt instrument in 2009 could be tax deferred until 2014.

Relief from the Built-In Gains Tax in S corporations has been provided for with the recognition period being temporarily reduced from ten to seven years for taxable years beginning in 2009 and 2010. This provision extends a benefit to C corporations that converted to an S corporation status in taxable years beginning 2000 through 2003.

Individuals have been encouraged to make investment in small-business stock by the increase from 50 percent to 75 percent exclusion on gains from stock acquired after February 17, 2009, and before January 1, 2011. The stock will need to be held for more than five years. The small business cannot have assets over \$50 million, and it must be an active trade or business.

The most immediate piece of individual tax relief is the "Make Work Pay" tax credit. This is a refundable tax credit for 2009 and 2010 of up to \$400 for working individuals and \$800 for working families, phasing out for those with adjusted gross incomes in excess of \$75,000 single or \$150,000 for joint filers. This benefit has already appeared as reduced federal income tax withheld from paychecks, which means more take-home cash and spending capacity.

In order to provide a similar benefit for individuals who derive their income from small business ownership, there has been a decrease in the estimated tax payments required during 2009. Estimated payments previously were based upon 100% of income on 2008 tax returns. The percentage used for calculating quarterly tax estimates has been reduced to 90%.

In all, the new law makes more than 300 changes to the Internal Revenue Code for businesses and individuals. Regardless of your view of the 2009 Economic Stimulus Plan, the business community can generally applaud the Obama Administration for the tax incentives contained in the legislation. Will the combination of government spending and tax incentives to increase cash flow be successful? Time will tell if this plan will open up the lines of credit, create jobs and restore confidence with the consumer and the business community.

Accountability and transparency have been stressed with this legislation. Visit the administration's web site, www.recovery.gov, to learn more about the ARRA's stimulus plans, its resources and Pennsylvania's recovery progress. ■



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