



November 30, 2009

CERTIFIED
PUBLIC
ACCOUNTANTS
& CONSULTANTS

Dear Clients and Friends:

RE: Worker, Homeownership and Business Assistance Act of 2009

1011 CENTRE ROAD
SUITE 310
WILMINGTON,
DE 19805
T: 302.225.0600
F: 302.225.0625
WWW.BELFINT.COM

The Worker, Homeownership and Business Assistance Act of 2009 (WHBAA) was signed into law November 6. Not only does the Act extend unemployment benefits for millions of Americans, but it also extends and enhances the homebuyers credit and the five-year net operating loss (NOL) carryback election for businesses.

The extension and expansion of the homebuyers credit and the five-year NOL carryback option could provide you or your business with a valuable tax-saving opportunity, but the rules surrounding these breaks are complex. We'd be glad to help you determine whether you're eligible and, if so, how you can make the most of these breaks. For additional information or if you have any questions, please do not hesitate to contact us at 302-225-0600 or info@belfint.com.

Best regards,

Belfint, Lyons & Shuman, P.A.

KEY PROVISIONS OF THE WORKER, HOMEOWNERSHIP AND BUSINESS ASSISTANCE ACT OF 2009 (WHBAA)

THE HOMEBUYERS CREDIT

Last year, a refundable tax credit equal to 10% 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. In February, the American Recovery and Reinvestment Act of 2009 (ARRA) extended its availability to purchases made before December 1, 2009 and generally removed the repayment obligation for qualifying purchases after December 31, 2008.

WHBAA has now extended the credit to purchases made before May 1, 2010 - or July 1 if a binding contract is in place before May 1 to close on the purchase before July 1.

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.

The homebuyer credit may also be claimed by existing homeowners who are “long-time residents.” For purchases after November 6, 2009, you can claim the homebuyer credit if you (and, if married, your spouse) maintained the same principal residence for any five-consecutive-year period during the eight years ending on the date that you buy the subsequent principal residence. For example, if you and your spouse are empty nesters who have lived in your suburban home for the past ten years, you are potentially eligible for the credit if you “move down” and buy a smaller townhome. There's no requirement for your current home to be sold in order to qualify for a homebuyer credit on the replacement principal residence. Thus, the replacement residence can be bought to beat the new deadlines (explained above) before the old home is sold. For that matter, you can hold on to your prior principal residence in the hope of achieving a better selling price later on.

The maximum allowable homebuyer credit for qualifying existing homeowners is \$6,500 (\$3,250 for a married individual filing separately) or 10% of the purchase price of the subsequent principal residence, whichever is less.

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

WHBAA does add a few new limits. 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) or
- The homebuyer is the dependent of another taxpayer.

What hasn't changed - The tax law still gives you the extraordinary opportunity to get your hands on homebuyer credit cash without waiting to file your tax return for the year in which you buy the qualifying principal residence. Thus, if you buy a qualifying principal residence in 2009, you can treat the purchase as having taken place this past December 31, file an amended return for 2008 claiming the credit for that year, and get your homebuyer credit cash relatively quickly via a tax refund. Similarly, you can treat a qualifying principal residence bought in 2010 (before the new deadlines) as having taken place on December 31, 2009, and file an original or amended return for 2009 claiming the credit for that year.

THE NOL CARRYBACK

Generally, when business deductions exceed gross income, the difference is an 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's not absorbed is carried forward up to 20 years.

ARRA 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. WHBAA expands the longer carryback option to businesses that don't qualify as "small" and extends it to 2009 NOLs.

Under WHBAA, generally taxpayers can apply the longer carryback to only one tax year's NOL and to offset only 50% of income in the fifth year back, 100% in the other four years. For qualifying small businesses, taxpayers can apply the longer carryback to both 2008 *and* 2009 NOLs, and the 50% 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.