



TAX in the *news* special

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TAX LAW CHANGES

Welcome to tax season 2010. The two charts in this special edition of *TAX in the news* provide a reference for tax law changes affecting the 2009 tax return, as well as upcoming changes that go into effect for tax year 2010—tax season 2011.

We hope you'll keep this special edition handy. We'll keep it posted to www.thetaxinstitute.com throughout the year and will update for additional changes.

2009 PROVISIONS (tax year 2009—tax season 2010)

<p>1) American Opportunity Tax Credit §25A Form 8863 2009 and 2010</p>	<ul style="list-style-type: none"> • Maximum credit increased to \$2,500 (100% of first \$2,000 expenses, 25% of next \$2,000 expenses) • Applies to the first four years of post-secondary education • 40% refundable unless claimed by a child subject to kiddie tax • Phases out at \$80,000-\$90,000 MAGI (\$160,000-\$180,000 MFJ) • Students in Midwest Disaster Area may instead claim an enhanced Hope credit of up to \$3,600 for 2009
<p>2) AMT patch §§ 55 and 26 Form 6251 2009 only</p>	<ul style="list-style-type: none"> • AMT exemption increased to \$46,700 (\$70,950 MFJ) • Nonrefundable personal credits allowed for AMT
<p>3) Bicycle commuting fringe benefit §132(f)(1) 2009 and later years</p>	<ul style="list-style-type: none"> • Qualified tax-exempt transportation fringe benefit; NOT a tax credit <p>Up to \$20/month (maximum \$240/year) to reimburse employees who regularly commute to work via bicycle</p>
<p>4) Casualty losses §165 Form 4684 Change for 2009 only</p>	<ul style="list-style-type: none"> • The \$100 per casualty floor for individual casualty losses is temporarily raised to \$500 per casualty
<p>5) Child Tax Credit §24 Form 8812 2009 and 2010</p>	<ul style="list-style-type: none"> • Additional Child Tax Credit (ACTC) earned income threshold decreased to \$3,000 (was \$8,500 in 2008) <p>Also see "UDC modifications"</p>
<p>6) COBRA subsidy §§ 139C and 6432 Beginning with COBRA premiums paid after 2/16/09)</p>	<ul style="list-style-type: none"> • COBRA premiums are 65% subsidized for up to 15 months • Jobless taxpayers who were involuntarily terminated 9/1/08 through 2/28/10 • Recaptured dollar-for-dollar for taxpayers with MAGI over \$125,000 (\$250,000 MFJ)

<p>7) Conversion kits §30B(a)(5) 2/18/09-12/31/11</p>	<ul style="list-style-type: none"> • Nonrefundable credit equal to 10% of the cost of converting to a plug-in electric drive motor vehicle • Maximum credit is \$4,000 • May be claimed for a vehicle that also qualifies for the hybrid vehicle credit
<p>Dependent exemption—See “UDC modifications,” “EITC,” and “Child Tax Credit”</p>	
<p>8) Depreciation §§ 168(k), 168(e)(3)(b)(vii), 179 Form 4562 For property placed in service in 2009</p>	<ul style="list-style-type: none"> • 50% bonus depreciation extended through 2009 • Enhanced §179 deduction up to \$250,000 extended through 2009 • Qualified farm machinery eligible for 5-year MACRS depreciation <ul style="list-style-type: none"> ○ Generally, any original use machinery used in farming business other than grain bin, cotton ginning asset, or other land improvements
<p>9) Economic Recovery Payment (ERP) §36A 2009 only</p>	<ul style="list-style-type: none"> • One-time payment of \$250 for recipients of SS, SSI, VA, or RRB benefits paid directly by the SSA, VA or RRB • Must have received a benefit 11/2008, 12/2008, or 1/2009 • Reduces the Making Work Pay Credit • IRS will not provide verification regarding whether a taxpayer received the ERP but will reject return if ERP is missing
<p>10) EITC modifications §32 2009 and 2010</p>	<ul style="list-style-type: none"> • Higher EITC for families with three or more children • Additional marriage penalty relief (phaseout threshold for MFJ increased an additional \$5,000 over the range for unmarried filers)
<p>Electric vehicles—See “Conversion kits,” “Plug-in Electric Vehicle Credit,” and “Plug-in Electric Drive Motor Vehicle Credit”</p>	
<p>Energy credits—See “Nonbusiness Energy Property Credit” and “Residential Energy Efficient Property Credit”</p>	
<p>11) First-Time Homebuyer Credit (FTHC) §36 Form 5405 plus substantiation —May not e-file 2009 return with FTHC, but may e-file without the credit and later amend! Changes effective 2009</p>	<ul style="list-style-type: none"> • Refundable credit equal to 10% of home purchase • Maximum credit <ul style="list-style-type: none"> ○ \$8,000 (\$4,000 MFS) for taxpayers who did not own principal residence in previous 3 years ○ \$6,500 (\$3,250 MFS) for long-term homeowners who owned and lived in their principal residence 5 consecutive years out of 8 and who purchase a replacement home after 11/6/09 • No repayment unless the home is sold or not used as principal residence within 3 years of purchase • Must close on or before by 4/30/10 (or on or before 6/30/10 if there is a binding contract by 4/30/10)

<i>(First-Time Homebuyer Credit, continued)</i>	<ul style="list-style-type: none"> • Claim on current or prior year tax return • Phaseout <ul style="list-style-type: none"> ○ For purchases before 11/7/09—MAGI \$75,000-\$95,000 (\$150,000-\$170,000 MFJ) ○ For purchases after 11/6/09—MAGI \$125,000-\$145,000 (\$225,000-\$245,000 MFJ) • Purchase price capped at \$800,000 for homes purchased after 11/6/09 only • Special provisions apply to military
<p>12) Government Retiree Credit (GRC) §36A(c) Schedule M (new) 2009 only</p>	<ul style="list-style-type: none"> • One-time refundable credit of \$250 (\$500 if both spouses eligible) • For recipients of government pension based on employment that was not covered under Social Security • May not claim if taxpayer received Economic Recovery Payment • Reduces the Making Work Pay Credit
<p>13) Home sales §121 Schedule D 2009 and later years</p>	<ul style="list-style-type: none"> • Gain on sale of principal residence may not be excluded for a period of <i>nonqualified use</i> <ul style="list-style-type: none"> ○ A period in which taxpayer owns home but does not use it as principal residence (e.g. uses it as a rental or vacation home) ○ Does not apply to any period before 2009 ○ Does not apply (up to 5 years) to periods after taxpayer moves out of the home • Non-excludable gain equals the ratio of nonqualified use over total use multiplied by gain on the sale
<p>Hope credit—See “American Opportunity Tax Credit”</p>	
<p>14) Making Work Pay Credit (MWPC) §36A Schedule M (new) 2009 and 2010</p>	<ul style="list-style-type: none"> • Refundable credit equal to 6.2% of earned income • Maximum credit \$400 (\$800 MFJ) • Advanced to most taxpayers through reduced payroll withholding • Phases out at \$75,000-\$95,000 MAGI (\$150,000-\$190,000 MFJ) • Some taxpayers (those with more than one job, and married taxpayers who both work) may be underwithheld for the year • Economic Recovery Payment (ERP) and the Government Retiree Credit (GRC) reduce the MWPC – the IRS will reject returns if the taxpayer received an ERP and does not report it on Schedule M

<p>15) Net operating loss (NOL) §172(b)(1)(H) Form 1045 or 1040-X New for 2008; rules modified for 2009</p>	<ul style="list-style-type: none"> • NOL for year beginning or ending in 2009 may be carried back 3, 4, or 5 years instead of the default 2 years (extension of 2008 provision) • 2009 election is not limited to small business • Extended carryback election is limited to one tax year <ul style="list-style-type: none"> ◦ Certain NOL elections (such as waiving carryback period) may be amended • 2009 NOL carried back to 5th preceding year is limited to 50% of taxable income for that year
<p>16) Nonbusiness Energy Property Credit §25C Form 5695 2009 and 2010</p>	<ul style="list-style-type: none"> • The nonrefundable credit for energy efficient improvements to a principal residence is reinstated for 2009 and 2010 (no credit for 2008) • Credit equal to 30% of cost of improvements <ul style="list-style-type: none"> ◦ No dollar cap for any type of improvement • Maximum credit is \$1,500 for 2009 and 2010 combined • <i>Not</i> reduced by any previous credit claimed in 2006-2007 • See www.energystar.gov for all specifications
<p>17) Plug-in Electric Drive Motor Vehicle Credit §30D Form 8936 New for 2009, modified for 2010</p>	<ul style="list-style-type: none"> • 2009 rules <ul style="list-style-type: none"> ◦ Newly purchased vehicle with which draws propulsion from a battery with at least 4 kW hours of capacity and is rechargeable from an external source ◦ For use on public streets or highways ◦ Credit maximum ranges from \$7,500-\$15,000 depending on the gross vehicle weight rating (GVWR) ◦ Phaseout triggered at sale of 250,000th vehicle • Low speed vehicles (LSVs) qualify for credit in 2009, but not 2010 <ul style="list-style-type: none"> ◦ LSVs qualifying for credit
<p>18) Plug-in Electric Vehicle Credit §30(a) Form 8834 2/18/09-12/31/11</p>	<ul style="list-style-type: none"> • Nonrefundable credit equal to 10% of cost of a “neighborhood” vehicle manufactured for use on public streets • Maximum credit is \$2,500 • Low-speed 4-wheeled vehicles with maximum speed 25 mph <ul style="list-style-type: none"> ◦ For 2009, LSVs may qualify for §30D credit plug-in electric drive motor vehicle credit • 2- and 3-wheeled vehicles • Must be powered by electric motor that draws electricity from battery that is rechargeable from an external source

<p>19) Residential Energy Efficient Property Credit (REEP) §25D Form 5695 Available through 2016</p>	<ul style="list-style-type: none"> • Nonrefundable credit for residential energy and hot water generated via alternative sources • Includes certain solar, small wind, fuel cell, and geothermal energy property • Credit equal to 30% of the cost of the equipment <ul style="list-style-type: none"> ○ \$500 per 0.5/kW of capacity for fuel cells ○ No credit caps and no credit maximum • See www.energystar.gov for all specifications
<p>20) RMD waiver §401(a) 2009 only</p>	<ul style="list-style-type: none"> • Required minimum distributions from IRAs, 401(k)s, etc. waived for 2009 at taxpayer's option • Taxpayer turning 70½ in 2009 need not take the 2009 RMD by 4/1/10 (but a taxpayer turning 70½ in 2008 must take the 2008 RMD by 4/1/09)
<p>21) Section 529 plans §529(e)(3)(A)(iii) 2009 and 2010</p>	<ul style="list-style-type: none"> • Computer technology and equipment allowed as qualifying expense
<p>22) UDC modifications §§ 152 and 24 First effective in 2009 Also see "EITC" and "Child Tax Credit"</p>	<ul style="list-style-type: none"> • Age requirement modification: Qualifying child (QC) must be younger than taxpayer (exception if QC is totally and permanently disabled) • Child tax credit modification: QC must be taxpayer's dependent (Form 8901 now obsolete) in order to claim the CTC • Tie-breaker modification: If parent is eligible to claim QC, but does not do so, another taxpayer may claim the child only if the other taxpayer's AGI is higher than that of any parent eligible to claim QC
<p>23) Unemployment benefits 2009 only</p>	<ul style="list-style-type: none"> • First \$2,400 of unemployment benefits paid in 2009 are tax-exempt • Form 1099-G will show gross unemployment benefits paid
<p>24) Vehicle sales tax deduction §164(a)(6) Schedule L (new) 2/17/09-12/31/09</p>	<ul style="list-style-type: none"> • Deduction for state and local sales and excise tax for new vehicles purchased 2/17/09 through 12/31/09 • May be claimed as an itemized deduction or added to standard deduction • Maximum per vehicle deduction is the tax on a vehicle costing \$49,500

2010 Provisions (tax year 2010—tax season 2011)	
<p>1) Estate tax repeal</p> <p>Note: It is very likely that these statutes will be modified some time this year</p>	<ul style="list-style-type: none"> • Estate tax and generation skipping tax (GST) are scheduled to be repealed for 2010 • Gift tax exemption is \$1 million • Limited step-up basis (to \$1.3 million) • After 2010, gift, estate, and GST rules schedule to return to pre-2001 law
<p>2) Expiring provisions</p> <p>Unless otherwise noted, all provisions expire after 12/31/09; may be extended by new legislation later this year</p>	<ul style="list-style-type: none"> a) AMT patch §55 b) Casualty losses in federal disaster area not subject to 10% of AGI limitation §165 c) Educator's expense deduction §62(a)(2)(D) d) Qualified charitable distributions from IRAs §408(d)(8) e) Standard deduction for federal disaster losses §63(c) f) Standard deduction for real property taxes §63(c) g) State and local sales tax deduction in lieu of income tax deduction §164 h) Tuition and fees deduction §222 i) COBRA subsidy (must be involuntarily terminated by 2/28/10) j) Depreciation incentives (bonus depreciation and enhanced §179) k) RMD waiver l) Tax-free unemployment up to \$2,400 m) Economic recovery payment n) Government retirees credit o) First-time homebuyer credit §36 (generally, expires after 4/30/10) p) New vehicle sales tax deduction §164(a)(6)
<p>3) Roth IRA conversions §408A(c)(3)(B)</p> <p>First effective in 2010</p>	<ul style="list-style-type: none"> • \$100,000 MAGI limitation on converting traditional IRA to Roth IRA no longer applies • Special tax provision applies to 2010 only <ul style="list-style-type: none"> ○ Tax on 2010 conversion is spread over a two-year period (2011-2012) ○ Taxpayer may elect to tax all in 2010 ○ No other elections available • Conversions after 2010 taxed in year of conversion

For questions about this edition of *TAX in the news*, e-mail us at TheTaxInstitute@hrblock.com