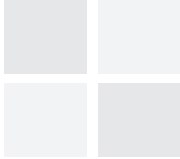


# Recent Tax Developments



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The following is a summary of some of the most important tax developments that have occurred in the past three months that may affect you, your business, your family, your investments and your livelihood.

### **Deadline extended for closing home purchase to qualify for homebuyer credit.**

Relief has been provided to taxpayers who could not meet a key June 30, 2010, closing date for qualifying for the homebuyer credit. In general, both the regular first-time homebuyer credit of \$8,000 and the reduced credit of \$6,500 for long-term residents expired for homes purchased after April 30, 2010. However, if a written binding contract to purchase a principal residence was entered into before May 1, 2010, the credit could be claimed if the purchase closed before July 1, 2010. Under the relief measure, if a written binding contract to purchase a principal residence was entered into before May 1, 2010, the credit may be claimed if the purchase is closed before October 1, 2010. This extension allows homebuyers who signed a contract no later than the April 30, 2010 deadline to complete their closing by September 30, 2010.

### **Guidance addresses tax breaks for hiring new employees.**

Employers are exempted from paying the employer 6.2 percent share of Social Security (i.e., OASDI) employment taxes on wages paid in 2010 to newly hired qualified individuals. These are workers who: (1) begin employment with the employer after February 3, 2010 and before January 1, 2011; (2) certify by signed affidavit, under penalties of perjury, that they have not been employed for more than 40 hours during the 60-day period ending on the date the individual begins employment with the qualified employer; (3) do not replace other employees of the employer (unless those employees left voluntarily or for cause); and (4) are not related to the employer under special definitions. The payroll tax relief applies only for wages paid from March 19, 2010 through December 31, 2010.

Employers may qualify for up to a \$1,000 tax credit for retaining qualified individuals. The workers must be employed by the employer for a period of not less than 52 consecutive weeks and their wages for such employment during the last 26 weeks of the period must equal at least 80 percent of the wages for the first 26 weeks of the period.

The IRS has issued guidance on these tax breaks in the form of frequently asked questions. These FAQs provide valuable information on subjects such as the scope of the exemption, how it interacts with other tax breaks and when an employer must receive the employee's certification of former unemployment status. For example, the

IRS explains that the exemption and credit can be claimed for a new employee replacing a downsized employee.

**Detailed guidance released on new small business health care credit.**

The IRS has issued detailed guidance on the small employer health insurance credit created by the recently enacted health reform legislation. Under the new law, effective for tax years beginning after December 31, 2009, an eligible small employer ("ESE") may claim a tax credit for nonelective contributions to purchase health insurance for its employees.

An ESE is an employer with no more than 25 full-time equivalent employees ("FTEs") employed during its tax year, and whose employees have annual full-time equivalent wages that average no more than \$50,000. However, the full credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full-time equivalent wages from the employer of not more than \$25,000. The new guidance adopts a liberal approach to the new law's requirements, including three alternative methods for figuring total hours of service (important for determining how many FTEs an employer has), and also explains how small employers claim the credit if their state provides a credit or subsidy for employee health coverage. The IRS has released a state-by-state table of average health insurance premiums for the small group market for the 2010 tax year. The table is needed to calculate the credit for this year.

**Guidance issued on new under age 27 rule for health coverage of children.**

The IRS has issued guidance on the tax treatment of health coverage for children under age 27 under the new health reform law. The new under age 27 rule, which went into effect March 30, 2010, applies broadly to employer-provided coverage or reimbursements, cafeteria plans, flexible spending arrangements ("FSAs"), health reimbursement arrangements ("HRAs"), voluntary employees' beneficiary associations ("VEBAs") and the above-the-line deductions for a self employed individual's medical care insurance costs.

**State address estate planning uncertainty.**

As of now, there is no estate or generation-skipping transfer ("GST") tax for individuals who die this year. There are issues as to how formula clauses in wills and trusts using estate or GST tax terms (e.g., "the applicable exclusion amount" or "the marital deduction") will be construed if the decedent dies in 2010. Several states have addressed this situation by enacting laws providing a special rule of construction under which formula clauses that refer to certain estate and GST tax terms generally will be constructed as referring to the federal estate tax and GST tax laws which applied to estates of decedents who died in 2009. These statutes could impact the amount that will pass under one's will to a spouse and children.