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Cash rebate provisions in the Economic Stimulus Act of 2008

Dear Client,

By now, you've probably heard about the recently-passed economic stimulus package (the Economic Stimulus Act of 2008), the centerpiece of which is the government's issuance of rebate checks to most Americans. In brief, the measure will bring tax rebates of \$600 for individuals and \$1,200 for couples to most taxpayers and \$300 checks to low-income people, including disabled veterans and the elderly. Here are the key details of the rebate provisions in the stimulus package.

Amount of rebate. Eligible individuals will receive a rebate for 2008 equal to the greater of:

(1) the taxpayer's 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). Qualifying income is earned income generally, social security benefits, and veterans' disability payments (including payments to survivors of disabled veterans).

There is an additional \$300 credit for each qualifying child for whom the child tax credit can be claimed. This is generally a dependent child who is under age 17 at the end of the year.

The amount of the rebate credit (both the basic and qualifying child amounts) will phase out at a rate of 5% of adjusted gross income (AGI) above \$75,000 (\$150,000 for joint returns). For joint filers with no children who would otherwise get the maximum \$1,200 basic credit, the credit will be entirely lost at AGI of \$174,000. A single filer with no children who would otherwise get the maximum \$600 basic credit will lose the entire credit at AGI of \$87,000.

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The amount of the rebate is not includible in gross income and does not otherwise reduce the amount of withholding. The rebates will be subject to offsets for items like past-due child support and debts owed to the federal government.

Eligible individuals. An eligible individual is any individual other than a nonresident alien, a dependent, or an estate or trust. Residents of the U.S. possessions will also receive the benefit. However, in an effort to bar illegal immigrants from receiving rebates, the rebate will not be available if an individual's tax return does not include social security numbers of the taxpayer, spouse, and any qualifying children. Taxpayer identification numbers (ITINs) that the Internal Revenue Service issues to aliens who are ineligible for social security numbers are not valid for this purpose.

Delivery of rebate checks. Most taxpayers will receive the credit in the form of a check issued by the Treasury. The amount of that check will be computed on the basis of tax returns filed for 2007 (instead of 2008).

Treasury will make every effort to issue payments as rapidly as possible to taxpayers who filed their 2007 tax returns on time. Taxpayers who file late or on extension will receive their payments later. No rebate checks will be issued after Dec. 31, 2008.

When taxpayers file their 2008 returns early in 2009, they will reconcile the amount of the credit with the rebate they received in the following manner. They will complete a worksheet calculating the amount of the credit based on their 2008 tax return. They will then subtract from the credit the amount of the rebate they received.

For many taxpayers, these two amounts will be the same. However, if the result is a positive number (because, for example, the taxpayer paid no tax in 2007 but is paying tax in 2008), the taxpayer will be able to claim that amount as a credit against 2008 tax liability. If the result is negative (because, for example, the taxpayer paid tax in 2007 but owes no tax for 2008), the taxpayer will not be required to repay the rebate amount to the Treasury.

We hope this information is helpful. If you would like more details about this or any other aspect of the new law, please do not hesitate to call Stan, Chris, Bill, Mike, Michael, Jane or Tom.

Very truly yours,



Nishball, Carp, Niedermeier, Pacowta & Co., P.C.