

Helpful Information from the National Association of Estate Planners and Councils

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EDUCATION FROM THE GOVERNMENT

Form 990 and Exempt Organization Webcasts. In this edition of the Journal, we provided IRS materials on the new update form 990. StayExempt.org, the web-based version of the popular IRS Exempt Organization workshops, has added new mini-courses on the redesigned IRS Form 990 to the online materials already available. The courses available at the website include:

- *Preparing to File the New Form 990*
- *The Redesigned Form 990 - Part I*
- *The Redesigned Form 990 - Part II*
- *The Redesigned Form 990 - Part III*
- *The Redesigned Form 990 - Part IV*
- *Navigating IRS EO Resources*
- *Political Campaigns and Charities*
- *Can I Deduct My Charitable Contributions?*
- *The Wonderful World of Foundation Classification (Part I)*
- *Applying for Tax-Exempt Status*
- *Tax-Exempt Status*
- *Unrelated Business Income*
- *Employment Issues*
- *Form 990*
- *Required Disclosures*

Small Businesses. The IRS website, Small Business Section, also includes videos on employment tax topics, including:

- *Employer Identification Numbers.* This video, discusses what an EIN is, how a small business owner can know if one is needed, and how to apply for an EIN.
- *IRS Letters and Notices.* The presentation also includes a discussion on what taxpayers should do if they receive a notice or letter from the IRS.
- *Tax Calendar (2009).* This video, an the month-by-month calendar that includes due dates for filing employment tax returns and depositing FICA and withholding taxes.
- *Adjusting Employment Taxes: New for 2009.* This video discusses the new employment tax return correction process that goes into effect on Jan. 1, 2009.

SBA Loans. The Small Business Administration's Small Business Training Network has introduced two new free online finance courses to help small business owners with the basic principles of finance and borrowing:

- Finance Primer: Guide to SBA's Loan Guaranty Programs
- How to Prepare a Loan Package

COMPREHENSIVE TAX GUIDE AVAILABLE FOR FREE AT IRS.GOV

The IRS has placed its comprehensive tax guide Publication 17, "Your Federal Income Tax," on its website. The Guide contains more than 900 interactive links. Publication 17 is available on line at www.irs.gov.

E FILING GROWS ACCORDING TO IRS

According to the IRS figures through Oct. 31, almost 90 million individual tax returns were e-filed an increase of 10 million over 2007. The returns constituted roughly 58% of total returns. E filing of corporate and partnership income tax returns reached almost two million, a 50% increase over 2007.

IRS AUDITS

For its 2008 fiscal year, IRS increased high-income-taxpayer audits by almost 16%, and small business audits by 3%. Compliance contacts of tax exempts and government entities increased by 6%. Over 4,000 criminal investigations were completed with a 92.3% conviction rate.

Areas the IRS is or will be cracking down on in the near future:

- Incomplete documentation of loans to or from Closely Held Businesses
- Foreign celebrities earning income in the US, but not reporting it.
- Abuses in section 529 Plans
- Tool reimbursement plans
- Improper Claims that Employees are Independent Contractors

HABITS OF BUSINESS EXECUTIVES

Two studies reported on the NFI Research website show some interesting statistics. In the first study 95% of business leaders kept to do lists, but 99% reported that they did not complete everything in the list. Another study showed that 58% of business leaders make themselves available to their employees and clients daily, even during vacation. During vacation, 74% check e-mails, and 57% use a computer. Business leaders in smaller companies are more likely to stay in touch than those in medium and larger companies.

Perhaps this is why a survey published by CareerBuilder.com, showed that 78% of American workers say they feel burned out.

FIRST-TIME HOMEBUYERS & THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008

First time homeowners can be entitled to a credit for the purchase of a home. The following is from IR 2008-106 issued by the IRS. The credit is available for a limited time only, the credit:

- Applies to home purchases after April 8, 2008, and before July 1, 2009.
- Reduces a taxpayer's tax bill or increases his or her refund, dollar for dollar.

- Is fully refundable, meaning that the credit will be paid out to eligible taxpayers, even if they owe no tax or the credit is more than the tax that they owe.

However, the credit operates much like an interest-free loan, because it must be repaid over a 15-year period. So, for example, an eligible taxpayer who buys a home today and properly claims the maximum available credit of \$7,500 on his or her 2008 federal income tax return must begin repaying the credit by including one-fifteenth of this amount, or \$500, as an additional tax on his or her 2010 return. Eligible taxpayers will claim the credit on new IRS Form 5405. This form, along with further instructions on claiming the first-time homebuyer credit, will be included in 2008 tax forms and instructions and be available later this year on IRS.gov, the IRS Web site.

Q. Which home purchases qualify for the first-time homebuyer credit?

A. Only the purchase of a main home located in the United States qualifies and only for a limited time. Vacation homes and rental property are not eligible. You must buy the home after April 8, 2008, and before July 1, 2009. For a home that you construct, the purchase date is the first date you occupy the home.

Taxpayers who owned a main home at any time during the three years prior to the date of purchase are not eligible for the credit. This means that first-time homebuyers and those who have not owned a home in the three years prior to a purchase can qualify for the credit. If you make an eligible purchase in 2008, you claim the first-time homebuyer credit on your 2008 tax return. For an eligible purchase in 2009, you can choose to claim the credit on either your 2008 (or amended 2008 return) or 2009 return.

Q. How much is the credit?

A. The credit is 10 percent of the purchase price of the home, with a maximum available credit of \$7,500 for either a single taxpayer or a married couple filing jointly. The limit is \$3,750 for a married person filing a separate return. In most cases, the full credit will be available for homes costing \$75,000 or more. Whatever the size of the credit a taxpayer receives, the credit must be repaid over a 15-year period.

Q. Are there income limits?

A. Yes. The credit is reduced or eliminated for higher-income taxpayers. The credit is phased out based on your modified adjusted gross income (MAGI). MAGI is your adjusted gross income plus various amounts excluded from income—for example, certain foreign income. For a married couple filing a joint return, the phase-out range is \$150,000 to \$170,000. For other taxpayers, the phase-out range is \$75,000 to \$95,000. This means the full credit is available for married couples filing a joint return whose MAGI is \$150,000 or less and for other taxpayers whose MAGI is \$75,000 or less.

Q. Who cannot take the credit?

A. If any of the following describe you, you cannot take the credit, even if you buy a main home:

- Your income exceeds the phase-out range. This means joint filers with MAGI of \$170,000 and above and other taxpayers with MAGI of \$95,000 and above.
- You buy your home from a close relative. This includes your spouse, parent, grandparent, child or grandchild.
- You stop using your home as your main home.
- You sell your home before the end of the year.
- You are a nonresident alien.
- You are, or were, eligible to claim the District of Columbia first-time homebuyer credit for any taxable year.
- Your home financing comes from tax-exempt mortgage revenue bonds.
- You owned another main home at any time during the three years prior to the date of purchase. For example, if you bought a home on July 1, 2008, you cannot take the credit for that home if you owned, or had an ownership interest in, another main home at any time from July 2, 2005, through July 1, 2008.

Q. How and when is the credit repaid?

A. The first-time homebuyer credit is similar to a 15-year interest-free loan. Normally, it is repaid in 15 equal annual installments beginning with the second tax year after the year the credit is claimed. The repayment amount is included as an additional tax on the taxpayer's income tax return for that year. For example, if you properly claim a \$7,500 first-time homebuyer credit on your 2008 return, you will begin paying it back on your 2010 tax return. Normally, \$500 will be due each year from 2010 to 2024. You may need to adjust your withholding or make quarterly estimated tax payments to ensure you are not under-withheld.

However, some exceptions apply to the repayment rule. They include:

- If you die, any remaining annual installments are not due. If you filed a joint return and then you die, your surviving spouse would be required to repay his or her half of the remaining repayment amount.
- If you stop using the home as your main home, all remaining annual installments become due on the return for the year that happens. This includes situations where the main home becomes a vacation home or is converted to business or rental property. There are special rules for involuntary conversions. Taxpayers are urged to consult a professional to determine the tax consequences of an involuntary conversion.
- If you sell your home, all remaining annual installments become due on the return for the year of sale. The repayment is limited to the amount of gain on the sale, if the home is sold to an unrelated taxpayer. If there is no gain or if there is a loss on the sale, the remaining annual installments may be reduced or even eliminated. Taxpayers are urged to consult a professional to determine the tax consequences of a sale.

- If you transfer your home to your spouse, or, as part of a divorce settlement, to your former spouse, that person is responsible for making all subsequent installment payments.

IRS CLT FORMS

In IRS Revenue Procedure 2008-45, 2008-30 IRB 224, the IRS provided sample trust forms and alternative terms for inter-vivos charitable lead trusts. In IRS Revenue Procedure 2008-46, 2008-30 IRB 238, the IRS provided sample trust forms and alternative terms for testamentary charitable lead trusts. The forms can be found at the IRS website.

TAX FREE FRINGE BENEFITS

Interested in knowing whether a particular employment fringe benefits is taxable. Pull the IRS handbook to determine taxability, value and reporting issues. See:

www.irs.gov/pub/irs-tege/fringe_benefit_fslg.pdf

HELPFUL WEBSITES

Travel Websites: Try some of these travel websites:

- www.kayak.com
- www.airfarewatchdog.com
- www.farecast.com
- www.lastminute.com
- www.thetravelinsider.com
- www.seatguru.com
- www.avoiddelays.com

Tax Updates. Go to the US Treasury Website and subscribe to various tax, employee benefit, financial and Treasury email updates. They will can hit your email daily.

Felons in the neighborhood? Go to www.felonspy.com to get information.

Business News for Executives. Go to www.ceoexpress.com for a site created to make it easier to quickly find business news at a single source.

ID Thefts Help. If you have problems with identity theft, look at these websites: www.idtheftcenter.org and www.privacyrights.org