

Winter 2010
Volume 4, Issue 1

**SPECIAL INTEREST
ARTICLES:**

Education Tax Incentives
Got Contractors?
Roth IRA Conversions
Health Care Update

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2009 TAX PLANNING STRATEGIES

Conventional wisdom in tax planning has usually been to defer taxes for as long as possible. New top tax rates are scheduled to go into effect on **January 1, 2011** – but there is certainly a lot of talk about potential rate increases coming in 2010.

BUSINESS TAXES

Section 179 - Expensing Asset Purchases

The American Recovery and Reinvestment Act of 2009 extended the increased small business asset expensing limits of \$250,000 for 2009. **New and used** assets put into service by December 31, 2009 qualify. The limit drops in 2010 (but look for further extensions).

New Vehicle Depreciation — Maximum depreciation allowed for business auto purchases in the year bought is at \$10,960 in 2009.

Bonus Depreciation — The new law extends the 50% first year bonus depreciation allowed on **new** assets purchased in 2009 (extended through 2010).

Net Operating Losses — Eligible small businesses can elect five year carryback periods for 2009 losses.

BUSINESS TAX CREDITS— Some tax credits available for businesses that apply to some companies:

- **Energy Efficient Home Credits** — available to qualified contractors at \$1,000 or \$2,000 per home based on energy efficiency for homes sold in 2009
- **Credit for Increasing Research Activities** — a credit of 20% on increased expenditures over a base year for qualified research (Call us if you think you are eligible)
- **Work Opportunity Credit** — available to employers who hire from specific targeted groups including: unemployed veterans, disconnected youths, welfare to work
- **Differential Pay Credit** — available at 20% up to \$20,000 in differential wages paid to a veteran while deployed on active duty
- **Low Income Housing Credit** — for qualified low income housing available on residential rental buildings in certified low income areas
- **Disabled Access Credit** — on expenses paid to provide access to persons who have disabilities. Maximum annual credit up to \$5,000
- **Pension Start Up Credit** — up to \$500 per year in the year starting a plan
- **Empowerment Zone and Renewal Community Credit** — Various credits available for investments and hiring in a qualified zone

2009 TAX BRACKETS - Taxable Income Levels

SINGLE	BRACKET	MARRIED/JOINT
\$0 - \$8,350	10%	\$0 - \$16,700
\$8,351 - \$33,950	15%	\$16,701 - \$67,900
\$33,951 - \$82,250	25%	\$67,901 - \$137,050
\$82,251 - \$171,550	28%	\$137,051 - \$208,850
\$171,551 - \$372,950	33%	\$208,851 - \$372,950
\$372,951 +	35%	\$372,951 +

INDIVIDUAL TAXES

Making Work Pay Credit — You’ve probably heard more about this credit than any other – capped at \$400 per taxpayer (\$800 for joint filers)– phased out at AGI of \$75,000 to \$95,000 (\$150,000 to \$190,000 for joint filers). This credit should have been reflected in lower taxes withheld from April.

Traditional and Roth IRA’s — If you qualify for IRA contributions for 2009, the limits for Regular and Roth IRA’s are: Under 50 years old – \$5,000; Over 50 years – \$6,000. There are many requirements to qualify for these amounts – *call us to review*.

Capital Gains — Gains on qualifying assets that you’ve owned for longer than a year are still eligible for a maximum tax rate of 15%. There are several variations on this rate, and if you’ve sold, or are considering selling, any of these assets – there could be higher rates: Real Estate, Options, Short Sells, Investment Properties, Collectibles, Depreciated Property. The plan is to keep these lower rates in effect through 2010 – but this could change.

“Clunker” Credit — Don’t believe what you read – if you received the “Cash for Clunkers” automobile rebate – it is **not taxable**.

New Car Deduction — Above the line sales tax deduction on cars, up to \$49,500, purchased between 2/17/09 and 12/31/09 with a gross weight of 8500 pounds or less. Phase out for AGI over \$135,000 (single) \$260,000 (joint).

Sale of “Personal” Assets — Gains on the sale of personal assets are generally subject to the lower capital gain rates – but losses from these sales (eg. vacation home) are **not deductible!**

Sale of a Principal Residence — Generally, taxpayers may exclude up to \$250,000 (\$500,000 for married - joint filers) of the gain realized on the sale of a **principal** residence. Some qualifiers:

- taxpayer owned residence for 2 out of the last 5 years
 - must have been principal residence for this period
 - must be two years between sales
- (Look for these rules to change in upcoming years.)*

Partial Exclusion of Unemployment Comp — For 2009, up to \$2,400 of unemployment compensation is excluded from gross income.

Homeowners Energy Credit — Extended through 2010, this credit has been increased from 10% to 30% on all eligible property (insulation, windows, doors, electric heat pumps, central air, etc.). The lifetime caps have also been increased from \$500 to \$1,500.

HEALTH CARE UPDATE

Afraid to update – it could change in the next few weeks. It’s likely that any sweeping changes in health care will not take effect until 2013. But here are some likely considerations for the next year:

- Premiums for family coverage have soared 131% over the last decade – and are scheduled to jump about another 10% in 2010.
- Employers will end worker coverage in record numbers because the cost is simply too high.
- A push to higher deductibles – cost sharing – and wellness programs.
- Insurance companies are planning more audits to catch ineligible participants.
- Employers will demand caps on premium increases.



What’s in the new Health Care Bill currently under debate:

- Plan **avoids** tax hikes, surtax, and extra payroll taxes
- Insurance firms would be subject to 35% excise tax on “Cadillac Plans”– those with extraordinarily high premiums.
- Individuals would pay a tax if they did not have coverage (based on income levels).
- To help low income people to buy coverage – tax credits would be given.
- Companies with more than 50 employees who do not provide coverage would owe a fee for each worker that claims the credit.
- Companies with less than 25 workers would receive a tax credit based on premiums paid (from 35% to 50%).
- Limiting the cap on health care flexible spending plans.

The cost of this bill is estimated at \$1 Trillion over 10 years.

EDUCATION TAX INCENTIVES

The cost of college continues to grow. The average tuition and board fees for 2008 increased by 6.4%. The government responded with \$143 billion in federal aid in the form of tax credits and deductions.

Some facts on college costs:

- Average annual four year private college tuition is \$25,463.
- Four year in state public college tuition is \$6,585 (cost raises to \$18,000 with room and board)
- 43% of parents of college age children have less than \$5,000 saved for college costs.
- 29% of students attending four year colleges pay less than \$6,000 per year in tuition.

Credits

- **Hope Credit (renamed American Opportunity Tax Credit)** — is 100% of first \$2,000 and 25% of next \$2,000 (total credit is \$2,500.) Also, 40% of the allowable credit is refundable. Good for all 4 years of college. The credit phases out at AGI between \$80,000-\$90,000 (between \$160,000 - \$180,000 for joint filers.)
- **Lifetime Learning Credit** — increased to 40% of \$10,000 of costs for maximum credit of \$4,000. The credit phases out at AGI between \$50,000-\$60,000 (\$100,000 - \$120,000 for joint filers.)

Deductions

The deductions for tuition payments were extended through 2009, but income limits make many taxpayers ineligible for this.

	INCOME LIMIT	DEDUCTION
Single	up to \$65,000	\$4,000
Married Joint	up to \$130,000	\$4,000
Single	\$65,001-\$80,000	\$2,000
Married Joint	\$130,001-\$160,000	\$2,000

(Deduction is not available for Married - Separate Filers.)

FREE CREDIT REPORTS



We recommend to our clients each year to get a free credit report from www.annualcreditreport.com where you can order a copy.

CLIENT SPOTLIGHT



Ask Winnie Clowry, owner of Winnie's Le Bus Manayunk, what makes her restaurant a beloved favorite and she'll say, "Good, Gotta Eat Food." After all, that is the restaurant's slogan.

Great food, a great atmosphere and great service is what it is all about. LeBus was established, originally, in 1978 on a college campus as a lunch bus (hence the name). Later, the restaurant moved to Manayunk where it became the jewel of it's bustling Main Street. At the same time, Winnie Clowry was busy working and learning a great deal from her father, who owned an Irish bar. When her father passed away in 1981, Winnie, who had been working at LeBus, was looking to buy her own restaurant.

With the encouragement of her husband, Bob, Winnie bought LeBus in 2003. "You have to love what you do. It is important to be passionate so you can give a good product," explains Winnie.

Adding her own special touches to the restaurant, Winnie created the Winnie's LeBus Manayunk that is known today. Voted "Top Brunch" by Philadelphia Magazine, the restaurant serves the same famous breads, cookies, and other treats, plus a crowd-pleasing menu of top-notch food using the freshest ingredients. Winnie's LeBus Manayunk continues to create meals that make a visit one to remember again and again.

"People feel warm and welcome here," says Winnie. A client of Brinker, Simpson & Company for the past 10 years, Winnie would like to offer readers, who mention this article, 10% off their food bill.

GOLF CART TAX CREDIT?

It's true – electric golf carts that are "street legal" and meet certain kilowatt requirements qualify for the new "Plug in Car Credit". In fact, a client recently purchased a qualifying golf cart for \$8,500 – and received a federal tax **credit** of **\$5,300**.

ROTH IRA CONVERSIONS

On January 1, 2010, the current gross income limit of \$100,000 vanishes for those looking to convert their regular IRA to a Roth. The conversion basically transforms future earnings from a “tax deferred” to a “tax free” status. The downside to a conversion – the amount moved to the Roth is taxable! To encourage 2010 conversions – Congress will allow half the income be reported in 2011 and half in 2012 (when rates are scheduled to go up!) Conversions are tricky – you need to contact us if you are thinking about this.

\$8,000 “FIRST-TIME HOME BUYER” TAX CREDIT AT A GLANCE

- The \$8,000 tax credit is for first-time home buyers only. For the tax credit program, the IRS defines a first-time home buyer as someone who has not owned a principal residence during the three-year period prior to the purchase.
- The tax credit does not have to be repaid.
- The credit is equal to 10 percent of the home’s purchase price up to a maximum of \$8,000.
- The credit applies only to homes priced at \$800,000 or less.
- The tax credit now applies to sales occurring on or after January 1, 2009 and on or before April 30, 2010. However, in cases where a binding sales contract is signed by April 30, 2010, a home purchase completed by June 30, 2010 will qualify.
- For homes purchased on or after January 1, 2009 and on or before November 6, 2009, the income limits are \$75,000 for single taxpayers and \$150,000 for married couples filing jointly.
- For homes purchased after November 6, 2009 and on or before April 30, 2010, single taxpayers with incomes up to \$125,000 and married couples with incomes up to \$225,000 qualify for the full tax credit.

\$6,500 “MOVE-UP/REPEAT HOME BUYER” TAX CREDIT AT A GLANCE

- To be eligible to claim the tax credit, buyers must have owned and lived in their previous home for five consecutive years out of the last eight years.
- The tax credit does not have to be repaid.
- The credit is equal to 10 percent of the home’s purchase price up to a maximum of \$6,500.
- The tax credit applies only to homes priced at \$800,000 or less.
- The credit is available for homes purchased after November 6, 2009 and on or before April 30, 2010. However, in cases where a binding sales contract is signed by April 30, 2010, the home purchase qualifies provided it is completed by June 30, 2010.
- Single taxpayers with incomes up to \$125,000 and married couples with incomes up to \$225,000 qualify for the full tax credit.
- You do not need to “move up” into a more expensive home to get the credit.

DEBT FORGIVENESS/SHORT SELLS/FORECLOSURES

The general rule is that debt forgiveness or cancellation of a debt that an individual is personally liable for results in ordinary income – **except** :

- under Title 11 Bankruptcy
- if taxpayer is insolvent before the cancellation (debts exceeded assets).
- qualified real property or primary residence debt
- certain forgiveness of student loans

“Short Sells” and “Foreclosures” sadly have become common terms for real estate investing. *If you are in either situation, you should contact us to determine the potential tax impact.*

GOT CONTRACTORS?

Does your business hire independent contractors? If so, have you considered the pros and cons of treating these contractors as employees? The IRS has announced that it will conduct 6,000 examinations over the next 3-years on random employment issues, specifically targeting misclassified workers that are claimed as independent contractors.

You might be surprised to find out that the relationship is much more likely to be that of employer/employee and that this misclassification can also be much more expensive than you might think! Since the penalties for incorrectly treating an employee as an independent contractor can be severe, you may want to reconsider the status of your workers.

It is common for small business owners to make the mistake of misclassifying the type of workers that they use. Some do simply because they don't fully understand the rules surrounding the classification, while other believe it to be a cost savings strategy.

A company's tax liability is determined by the worker's employment status. When a worker is an employee, employers must pay state and federal unemployment tax, social security tax and workers compensation/disability premiums to a State Insurance Fund. When a worker is an independent contractor, the hiring party is not required to make any of these payments. Some small business owners might try to hire workers and incorrectly label them as independent contractors in order to avoid these tax and insurance liabilities. Companies might even pay these independent contractors a higher rate and advise them that they are responsible for paying and remitting their own payroll and employment taxes and carrying their own insurance. When this is the case, the bottom line is that hiring an independent contractor should not cost more (on an hourly basis) than hiring someone as an employee.

Generally, an individual who performs services for you is your employee if you have the right to **control** what will be done and how it will be done even when you give the individual freedom of action. What matters is that you have the right to control the details of how the services are performed. On the other hand, an individual is generally an independent contractor if the person for whom the services are performed has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

In determining whether the person providing service is an employee or independent contractor, all information that provides evidence of the **degree of control and independence** must be considered. Facts that provide evidence of the degree of control and independence fall into the following three categories:

1. Behavioral control: The more control you have over the work performed, the more likely your workers are employees. Behavioral control includes the right to tell a worker how, when, and where to do the work, even if you don't exercise that right.
2. Financial control: Do you pay for tools, equipment, facilities, and business and travel expenses? That can indicate an employer/employee relationship. Independent contractors typically take on a certain amount of financial risk themselves.
3. Type of relationship: Independent contractors usually provide the same or similar services to others and receive no employee-type benefits from you, such as paid vacation or sick days.

These categories are based on a list of factors the IRS uses as guidelines, but the final decision requires an objective facts-and-circumstances analysis of each situation. It is the substance of the relationship, not the label, that governs the worker's status. It also does not matter how payments are measured or paid, what they are called or if the employee works full or part time.

If you classify an employee as an independent contractor with no reasonable basis for doing so, you may be held liable for employment taxes for that worker. You will generally be liable for social security and Medicare taxes and withheld income tax if you did not deduct and withhold these taxes because you treated an employee as a nonemployee. You will not be able to recover the employee's share of social security, Medicare or income tax withholding and very well may also be liable for the income taxes regardless of whether or not the employee paid income taxes on the wages.

In addition, if the worker should get hurt while working for you, you can be sure that your worker's compensation insurance will be challenged and that if you should have insured the worker (but didn't because you misclassified his status) then you may very well be liable for any medical claims as a result of the injury. The same could also be said for state unemployment, if the worker involuntarily stops working for you and files a claim.

We recommend you discuss this issue with us. The IRS is increasing its scrutiny in this area in 2010.



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**EXPERT ADVICE AND
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YOU NEED...
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**JOIN US IN ADOPTING
A FAMILY FOR THE
HOLIDAYS!**

Brinker, Simpson & Company will once again contribute to the "Adopt-A-Family" program. For the past 8 years, clients, friends and staff have provided a spectacular holiday for local families who otherwise would not have a very happy one.

If you would like to join us in contributing to this very rewarding program, please contact Anne McPeake at 610-544-5900 or e-mail her at amcpeake@brinkersimpson.com.

**WE WISH YOU A
FESTIVE HOLIDAY
SEASON AND
A HEALTHY,
PROSPEROUS
NEW YEAR!**



WHAT'S NEW AT BRINKER, SIMPSON & CO.

Once again, the staff from Brinker, Simpson & Company put together a food Basket Program to benefit those in need. Staff decorated, stuffed and delivered baskets to several local families so they could enjoy a delicious Thanksgiving meal.

We welcome Joe Sillo, CPA, who joined the firm as a Manager, and Maura Sardella, Client Services, who joined the firm in October.

We also welcome Tony Mitchell, CPA and Linda Scafiro, CPA who joined the firm as Partners in December.

After 18 years, Joyce MacIntyre, our firm Controller, has retired. Joyce will get to enjoy her days with her new grandson. We will miss her.

Joe Sillo was elected Treasurer of the Springfield Swim Club.

Congratulations to Main Line Telecommunications of Aston, a client of the firm, for being honored with the

exclusive 2009 Award of Excellence for the 4th consecutive year. To learn more, visit: www.mltcom.com.

Bob Simpson presented a program on 2009 Tax Planning for the Veterans Administration of Philadelphia. Bob was also elected Finance Chair of Entrepreneurs Organization of Philadelphia.

The Delco Run for Heroes 5K race in October was another success raising \$25,000 for the Delaware County Hero Scholarship Fund. Thanks to all of our clients who sponsored this worthy cause and those who competed in the race.

Brinker, Simpson & Company staff helped support the Delaware County Chamber of Commerce at their Annual dinner on November 19th. Staff heard (and met) inspirational key note speaker from Delaware County, Vince Papale.

