

Tax relief for military and other service members in the Worker, Homeownership, and Business Assistance Act of 2009

Dear Reader:

On November 6, 2009, President Obama signed into law the "Worker, Homeownership, and Business Assistance Act of 2009" (the 2009 Assistance Act). In addition to providing an extension of unemployment benefits for the long-time jobless, the 2009 Assistance Act includes tax relief for military and other service members. I'm writing to give you an overview of these new provisions. Please call our offices for details of how the new changes may affect you or your family.

Waiver of Homebuyer Credit Recapture

The first-time homebuyer tax credit must be recaptured (i.e., paid back to the government) if the home is sold (or ceases to be used as a principal residence) within three years of the purchase. A more extensive recapture rule applies to qualifying home purchases in 2008. The 2009 Assistance Act provides that the first-time homebuyer credit does not need to be paid back if, after December 31, 2008, the home is sold (or ceases to be used as a principal residence) by a member of the uniformed services, a member of the U.S. Foreign Service, or an employee of the intelligence community, in connection with a government order received by the individual or the individual's spouse for qualified official extended duty.

Extension of Homebuyer Credit for Service Members Overseas

The first-time homebuyer tax credit was scheduled to expire on November 30, 2009, but the 2009 Assistance Act extends the credit to purchases before May 1, 2010 (July 1, 2010, for taxpayers with binding contracts). For service members serving overseas, the extension is one year longer. The 2009 Assistance Act provides that for service members serving outside the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010, the purchase must occur before May 1, 2011 (July 1, 2011, for taxpayers with binding contracts). The idea behind this additional extension is to allow service members stationed overseas to take advantage of the credit when they return.

Exclusion from Gross Income of Qualified Military Base Realignment and Closure Fringe

The Homeowner's Assistance Program (HAP) has long provided payments to certain Defense Department employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure. These payments are excluded from the recipient's gross income and are not considered wages for FICA tax purposes (including Medicare). The stimulus legislation enacted earlier this year (i.e., the American Recovery and Reinvestment Act of 2009 (ARRA)) expanded HAP to cover, among other things, individuals whose property values were affected by the current real estate slowdown, including wounded Armed Forces members and civilian Department of Defense and Coast Guard employees, and Armed Forces members permanently reassigned from an area at or near a military installation. The new law expands the exclusion from income to cover HAP payments authorized under ARRA, effective for payments made after Feb. 17, 2009 (ARRA's enactment date).

I 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.

