Vol. 35, August 2008

TAX LETTER

Housing and Economic Recovery Act of 2008

Dear Clients and Friends:

At the end of July 2008, Congress rushed and President Bush signed the “Housing and Economic Recovery Act of 2008” (H.R. 3221). Among all the provisions, at least, three subject matters deserve our attention. While one is mortgage related, the other two are income tax related.

A. FHA Refinancing:

To reduce the number of foreclosures, the 2008 Housing Act offers a special refinancing program for qualified homeowners. Based on the Federal Government estimation, there are about 400,000 qualified homeowners and will cost the Federal Government about $300 Billion.

The program will be run by the Federal Housing Administration (FHA). FHA will underwrite up to $300 Billion guarantee for purposes of refinancing qualified home mortgages by standard 30-year, fixed-rate home loans. The maximum amount of principle refinanced for each home will be set at 90% of the current, newly appraised value. Any existing mortgage balances in excess of the maximum amount allowed will have to be written down and absorbed voluntarily by the current lenders and/or banks.

To qualify, the homeowner borrower can not have any intention to default on their existing loan(s), and can not have a debt-to-income ratio as of March 1, 2008, less than 31%.

Assuming the Federal estimates are correct, for the program to succeed, the lenders and banks must agree to cooperate, to voluntarily write off the different between the current balances and the FHA insured amount of refinancing.

B. First-Time Homebuyer Tax Credit:

A special individual income tax credit is made available by the 2008 Housing Act. For two years, 2008 and 2009, a first-time homebuyer will be able to claim a tax credit equals to 10% of the purchase price of the home up to a certain maximum amount. For single persons and married filing joint return couples, the maximum credit will be $7,500. This $7,500 will be reduced by certain Gross Income thresholds. These reduction or phase-out thresholds for single taxpayers are $75,000 to $95,000; for married filing joint return couples are $150,000 to $170,000.

For the purposes of the 2008 Housing Act, the definition of First-Time-Homebuyer is a person had no ownership interest in a principle residence during the three-year period immediately before the acquisition of a new principle home.

Further, this First-Time Homebuyer Tax Credit is different from all other tax credits, the taxpayers must repay the total amount of tax credit claimed within a 15 years period with no interest added. The first repayment will start two years after the year of purchase. Should the homebuyer decided to sell before the tax credit had been fully repaid, the IRS will accelerate the repayment of the balance of the unpaid tax credit.

C. Home Sales Exclusion Changes:

Currently, selling a principle residence by a single taxpayer can exclude $250,000 gain ($500,000 for married couple filing jointly). To qualify, the residence should be owned by and used by the owner as principle home for at least 2 years. However, these 2 years of ownership and principle home requirements do not need to be concurrent. The full amount of exclusion will be permitted; even the residence was a rental property for up to 3 out of most recent 5 years. No pro-rata is necessary.

As of January 1, 2009, under the newly enacted "Housing" Act, non-qualified use of the residence such as used as vacation home or as rental property, the total exclusion amount must be prorated among usages. For example, beginning January 1, 2009, the residence was a rental house for 3 years. On January 1, 2012, the owner returned and used the residence as principle home for 2 years. On January 1, 2014, the residence was sold, and the exclusion must be prorated. If the owner is a single taxpayer, the allowable exclusion would be $100,000 (2 over 5 = 40%; 40% of $250,000 = $100,000). All non-qualified use of the residence prior to January 1, 2009, if any, will be required to prorate.

Finally, the new "Housing" Act makes no changes concerning the rental depreciation recapture.

If you need any further information, please give us a call at 415-381-0681, or visit our web site "**www.chochan.com**".

Sincerely,

Cho F. Chan CPA, Inc.