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TAX LETTER

Two new income tax provisions became law in November 2009

President Obama H.R. 3548 , Worker, Homeownership, and Business Assistance Act of 2009 into law on November 6, 2009. Among all others, there are two provisions which we believe will be of great interest to our readers. They are: The new 5 year NOL carry back and the New Home Buyer Credits.

(A) New 5 year NOL Carry Back

New 5-year NOL carried back - Under this new law, Small business and big business can carry back their net operating losses (NOL) generated in 2008 and/or 2009 up to 5 prior years (or 5 prior fiscal years).

Small business, for these purposes is defined as corporations, partnerships, or sole proprietors with annual gross receipt under \$15,000,000, may elect to extend the carry back period for losses generated in either 2008 or 2009, and/or in both years.

Large business, for these purposes is defined as corporations, partnerships, or sole proprietors with annual gross receipt \$15,000,000 or more, may only elect to extend the carry back period for losses generated in either 2008 or 2009. They are not allowed to make election for losses generated from both years.

Further, large businesses are subject to a carry back limitation under which the amount can be carried back to the fifth tax year preceding the loss generation year cannot exceed 50% of the large businesses' taxable income for such preceding year.

Whether small or large businesses, the extended carry back period (more than the standard 2 years) must be made affirmatively. The election, once made, can not be revoked.

(B) New Home Buyer Tax Credits

The popular First Time Home Buyer refundable tax credit was scheduled to expire on November 30, 2009. Effective, November 6, 2009, this popular tax credit was extended by H.R.3548 for 5 more months from December 1, 2009 to April 30, 2010. To qualify for this refundable credit, the home buyer must qualify as a first time home buyer exactly the same as it was required under the rule expiring on November 30, 2009, and must enter into a binding contract to buy on or before April 30, 2010. However, the purchase transaction or escrow may be closed on or before June 30, 2010.

The amount of refundable credit, for a qualified first time home buyer, remain at 10% of purchase price of the home and not to exceed \$8,000. The credit phase-out income level for a single buyer will be increased to “\$125,000 to \$145,000”. For a joint filer the phase out income range will be increased to “\$225,000 to \$245,000”.

The new law, H.R. 3548, also allow this refundable credit to a qualify existing home owner to buy and move into a new home. The existing home owner must own and live in the existing home for at least 5 years before the closing of purchase transaction of the new home. The time period for buying and closing this new home are exactly the same as for the first time home buyer. However, the refundable credit amount for existing home owner will be reduced to 10% of purchase price up to \$6,500. The income phase out levels will be the same as they are stated above.

For both type credits - first time buyer and existing owner – the Home price can not exceed \$800,000 and a copy of the closing statement for the purchase must be attached to the 2009 tax return claiming the \$8,000 or \$6,500 credit.

Any question please give us a call at 415-381-0681. For other additional information, please visit our web site at chochan.com.

Sincerely,

CHO F CHAN CPA, INC.