The 2009 Tax Act - ARRA

STEVE WALLACE

PARTNER

The American Recovery and Reinvestment Act of 2009 (ARRA) was enacted on February 17, 2009. The 2009 act changed tax law for individuals and businesses in numerous ways. Following is a brief overview of some of the more prominent provisions of the act.

Individuals

Making Work Pay Tax Credit

This credit means more take-home pay for many Americans. The credit is supposed to provide up to $400 to individuals and $800 to married couples. Workers receive the credit through small increases in their paychecks from reduced tax withholding. It has been noted that the new withholding tables issued by the IRS could cause millions of taxpayers to receive more than they are entitled to. The IRS recommends using the withholding tax calculator at www.IRS.gov to make sure enough is being withheld.

First-Time Homebuyer Credit Expands

First-time home buyers who close on their home purchase by November 30, 2009 can get a credit of up to $8,000 with no payback requirement.

Money Back for New Vehicle Purchases

Taxpayers who buy certain new vehicles in 2009 can deduct the state and local sales taxes they paid, or other taxes and fees they paid in states, such as Oregon, with no sales tax. The deduction is available regardless of whether a taxpayer itemizes deductions on Schedule A. It has been noted that Oregon taxpayers will generally receive less than $200 in deductions from this part of the tax act.

Up to $2,400 in Unemployment Benefits Tax Free

The first $2,400 of unemployment benefits an individual receives in 2009 is tax free.

$250 for Social Security Recipients, Disabled Veterans and Railroad Retirees

A one-time payment of $250 will be made in 2009 to individuals receiving the above benefits. The IRS will not make this payment. Each respective agency will make the payment to eligible recipients.

See ***ARRA/*** *page 2*

Summer 2009

Inside

Smartsizing your Laptop
3

The Tax Horizon
4

Looking back on 2008
5

Upcoming Changes in Roth IRAs
6

Payroll Services COBRA
7

Firm News
7

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ARRA/ from page 1

OtherIndividual Provisions
The 2009 act also changes various other provisions of the tax law to include: Enhanced Credits for 2009, 2010 (earned income tax credit, additional child tax credit and the American Opportunity Credit); Increased Transportation Subsidy; Energy efficiency and renewable energy incentives; 529 Plans Computer Purchases; and, the Health Coverage Tax Credit.

Businesses

Net Operating Loss Carryback
Eligible small businesses (average of less than $15 million in gross receipts over a three-year period ending with the year of the loss) can offset losses by getting refunds on taxes paid up to five years ago. Actually, you may elect to carry the loss for any number of years from three to five, but remember the election is irrevocable.

Section 179 Deduction
Under ARRA, qualifying businesses can continue to expense up to $250,000 of section 179 property for tax years beginning in 2009. Without ARRA the 2009 limit would have been $133,000. The $250,000 amount provided under the new law is reduced if the cost of all section 179 property placed in service by the taxpayer during the tax year exceeds $800,000. Additionally Bonus Depreciation is extended through 2009, allowing businesses to take a larger depreciation tax deduction within the first year of a property's purchase.

Making Work Pay Tax Credit
Businesses should use the new withholding rates for their employees.

Work Opportunity Tax Credit
This newly expanded credit adds returning veterans and "disconnected youth" to the list of new hires covered by the credit. Certification by the state work force agency is required.

COBRA: Health Insurance Continuation Subsidy
Please see the related Payroll Services article on page seven of this issue for detail on this aspect of the act.

Energy Efficiency and Renewable Energy Incentives
ARRA provides numerous incentives for businesses including: New Clean Renewable Energy Bonds; Qualified Energy Conservation Bonds; Extension of Renewable Energy Production Tax Credit; Election of Investment Credit in Lieu of Production Credit; Repeal of Certain Limits on Business Credits for Renewable Energy Property; Coordination with Renewable Energy Grants; and, Temporary Increase in Credit for Alternative Fuel Vehicle Refueling Property.

Other Business Provisions
The 2009 act also changes various other provisions of the tax law to include: Build America Bonds and Recovery Zone Economic Development Bonds; Education-Related Bond Provisions; Reduction of Estimated Tax Payments; and, Capital Gains Tax Break for Investment in Small Business

2008 changes of interest for 2009

Required Minimum Distributions from Retirement Accounts
This tax law change provides relief to senior citizens by allowing them to continue to keep money in retirement accounts that they are typically required by law to withdraw once they reach age 70 ½. The new law suspends the required minimum distribution from retirement accounts for 2009 only.

Emergency Economic Stabilization Act of 2008
Three tax provisions in this 2008 Act affect 2009. They include: a three-year extension of income tax relief when home mortgage debt is forgiven; tax relief for community banks that invested in Fannie Mae and Freddie Mac preferred stock; and, a tax crackdown on compensation and severance pay for certain executives of financial companies.

Tax Extenders and Alternative Minimum Tax Relief Act of 2008
Numerous extensions of several popular tax breaks and some new relief provisions were provided by this Act. Some of the key provisions include:

- Deduction of state and local general sales taxes
- Qualified tuition deduction
- Teacher expense deduction
- IRA rollover provision
- Additional standard deduction for real property taxes
- Research and development credit
- 15-year straight-line recovery for qualified leasehold, restaurant, and retail improvements

Numerous other provisions affecting a small minority of taxpayers.

For a look ahead at what the future holds for more tax changes, read the article "The Tax Horizon – Federal Tax Proposals" by tax partner Paul Sander in this issue on page four.

For additional information, or questions, on any of the information provided in this article please contact us.

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Smartsizing your Laptop

BRENT GOODFELLOW

TECHNOLOGY PARTNER

OK, think about all those 'sizing' words, like rightsizing, brightsizing, dumbsizing and downsizing. In these uncertain economic times when we see all around us the process of rightsizing and downsizing being implemented in our businesses, mere economics dictates that prudent managers reduce expenses when revenue falls, and many times this means good people find themselves without work.

Remember the famous inventor Dr. Wayne Szalinski (played by actor Rick Moranis) in the Disney movie series who managed to use a new invention to shrink his children. Well, perhaps Dr. Szalinksi has been practicing on the laptop and this could actually prove to be a way to reduce expenses as well. I'm talking about the new form factor for laptops referred to as 'netbooks' or 'internet notebooks'. These nifty little (form factor) machines are becoming quite popular. Previously, if you wanted to be mobile, your choices were a 4 inch screen on a smartphone or a 12 inch screen on a laptop. For me, the 4 inch screen is a little small to get any real work done. You can of course read and respond to emails and create an urgent appointment or look up a contact's information, but forget creating a letter or writing an article and don't even think about trying to view or edit a spreadsheet document. The 12 inch screen does solve the 'screen space' problem of the smartphone, but adds its own weight and size problem. I don't like adding 6-12 lbs to my briefcase and not have room for a magazine or two without investing in an expandable case. So the 9 inch screen and under three pound netbook was a perfect fit for me – and the price point at somewhere less than $400 sealed the deal.

Originally, I thought a computer with only 1 GB of memory would not keep up with my poweruser type demands, but I was pleasantly surprised. There are a number of manufacturers who have a model that falls into this category including ASUS's EePC, Dell's Inspiron Mini 9, HP's Mini 1000, MSI's Wind U123 and Acer's Aspire One. I've had my hands on both the MSI and Acer netbooks and am using an Aspire One on a daily basis. This machine came with a 160 GB hard disk, 1 GB of memory, a 10/100 Ethernet port, 802.11g wireless network card and three USB ports. It also has a built-in webcam/microphone, headphone/microphone jack, speakers and a VGA external monitor port. The 1.6 Ghz Intel Atom processor is more than sufficient to run the included Windows XP operating system, but wouldn't begin to run Windows Vista. As an experiment, I loaded Windows 7 Release Candidate on the Acer and found its performance to be surprisingly acceptable.

This machine has given me more bang for the buck than any notebook/laptop I've ever owned. I use it daily and the portability is incredible. I consistently get 4+ hours on a battery charge. I'm not a big fan of the built-in touch pad, but it's a pretty easy process to connect a portable laser mouse to solve that problem.

Best of all, I don't have to cringe if I inadvertently drop it and damage it beyond repair. If you're interested in trying one of these models yourself, give us a call and we'll put one together for you. You'll be glad you did.

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Who is BKR?

BKR International is an association of independent firms of accounting, taxation, and business advisers located in major markets throughout the world. Member firms are large enough to offer a full range of technical services, yet small enough to deliver personal service and offer independent and objective advice for entrepreneurs. BKR International member firms are selected for their local influence and international capability, and pride themselves on being at the forefront of commercial activity.

Member firms voluntarily submit to a rigorous assessment of their professional services. In this way, member firms not only adhere to their local regulatory accreditation, but also endeavor to meet even higher standards of professional excellence.

This association allows members to offer a greater range of services to their clients by accessing the knowledge and expertise of other members, who have a greater knowledge or expertise in a particular industry. It also allows members to easily and seamlessly provide consistent services for clients with multiple locations, both nationally and internationally.

Federal Tax Proposals

PAUL SANDER

TAX PARTNER

On May 11, the Treasury Department released the "General Explanations of the Administration's Fiscal Year 2010 Revenue Proposals," known as the Green Book for the color of its cover. This 130-page document carries a fairly comprehensive blueprint of the tax proposals the Administration hopes to shepherd through Congress to make its FY 2010 budget plans a reality.

Tax Changes for Higher Income Individuals

Under the Administration's revenue proposals, higher income individuals would face higher tax bills in the years to come. Here's a summary of what would be in store:

- Beginning in 2011, the highest income tax rate would be 39.6% for incomes over $250,000 for married filing jointly, $200,000 for singles. The second highest tax rate would be 36%. The 28% rate bracket would be expanded so that taxpayers earning less than these amounts would not see their taxes rise because of the increased tax rate brackets.

- After 2010, the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) elimination of the limit on itemized deductions would sunset. As a result, we would revert back to prior law where certain itemized deductions would be reduced by 3% of the amount by which adjusted gross income (AGI) exceeds statutory floors.

- The EGTRRA elimination of the personal exemption phase-out would sunset after 2010 and the AGI levels at which the phase-out begins would be adjusted. For 2011, the AGI floors would be adjusted for inflation.

- For tax years beginning after 2010, a 20% tax rate on long-term capital gains and qualified dividends would apply for married taxpayers filing jointly with income over $250,000 and for single taxpayers with income over $200,000.

- The tax value of all itemized deductions would be limited to 28% whenever they would otherwise reduce taxable income in the 36% or 39.6% tax brackets.

Other Tax Changes for Individuals

The alternative minimum tax (AMT) would stay on the books but the exemption amounts would be indexed annually. Most of the tax reductions enacted in 2001 and 2003 which are set to expire on Dec. 31, 2010 under current law would be continued (with the changes noted above for higher income individuals), except for repeal of estate and generation-skipping transfer taxes. Estate and gift taxes would be extended at parameters in effect for calendar year 2009 (a top rate of 45% and an exemption amount of $3.5 million).

Other proposals for individuals include the following, all effective after 2010:

- The making work pay tax credit would be made permanent and the phaseout of the credit would be liberalized.

- The following earned income tax credit (EITC) rules would be made permanent: the $5,000 (indexed) increase in the beginning of the phase-out range for joint filers relative to other individuals; and the expansion of the EITC for workers with three or more qualifying children.

- The liberalized $3,000 earnings threshold for refundability of the child credit would be made permanent and the earnings threshold would no longer be indexed for inflation.

- The American Opportunity Tax Credit (AOTC) enacted by ARRA to temporarily replace the Hope credit for 2009 and 2010 would permanently replace the Hope credit. These credits are available for qualified college costs. Additionally, the AOTC's $2,000 tuition and expense amounts, as well as the phase-out thresholds, would be indexed for inflation.

Mandatory IRA for Employees

Effective Jan. 1, 2010, employers in business for at least two years that have 10 or more employees, and that don't have a qualified retirement plan or SIMPLE retirement plan, would be required to offer an automatic IRA option to employees on a payroll-deduction basis, under which regular payroll-deduction contributions would be made to an IRA. Employers could claim a temporary tax credit for making automatic payroll-deposit IRAs available to employees. The amount of the credit would be $25 per enrolled employee up to $250 each year for two years.

Tax Changes for Business

The research credit would be made permanent, and a lengthened NOL carryback period would be made available to more taxpayers.

The budget proposals include many revenue raising and compliance changes for businesses, including the following:

- Disallowance of the LIFO inventory accounting method. This one-time increase in gross income would be taken into account ratably over the first tax year and the following seven tax years.

- Currently, taxpayers not using a LIFO method may write down the carrying values of their inventories by applying the lower-of-cost-or-market (LCM) method and may write down the cost of "subnormal" goods. Effective for tax years beginning after 12 months from the enactment date,

See **Tax Horizon/** *page 8*

Looking back on 2008

LESTER FORDHAM, JR.
MANAGING PARTNER

I read this in a recent paper written by Tom Robinson, President of Oppenheimer Asset Management and I found this summary of reflections on the markets of the last year insightful, so I would like to share his thoughts with our clients and friends.

Excerpts from "Thoughts on Investment Lessons from 2008"

In this paper we will discuss the following points. They are not the whole story. However, we believe these have considerable merit to commend them.

1. Diversification Works, Strategic Asset Allocation Works.

To make sure they work we need to be sure our asset classes are non-correlated. In our asset management effort we are continually doing analysis to assure ourselves that we do this as effectively as possible. We cannot see the future any more than anyone else, but this does not mean that we are without tools to help us think through these matters. One of the lessons we learned in the 2008 bear market was that correlations for many asset classes on the upside turned out to be asymmetrical on the downside. Our research will be intensive on this matter going forward. We don't want to be precipitous, but we do want to make adjustments that have sound analytical support.

2. Risk and Risk Tolerance Need to Be Revisited.

After 2008, liquidity, cash, and the role of bonds in a diversified portfolio are likely going to be part of a renewed client focus as they reevaluate the downside protection they want, and what they now may be willing to sacrifice in terms of return to get it. Another approach to risk management may be to utilize alternative investments if the client can understand and accept the risks and can qualify as an investor. If a client does not or cannot invest directly, there are now alternative strategies created by many hedge funds utilizing separate accounts or mutual funds, some of which are on our platform. These may have material differences relative to the actual hedge fund, but they nonetheless could be helpful in appropriate situations for some clients. Adding what may be considered a "risky" investment to a portfolio does not necessarily have to increase the risk of the overall portfolio.

3. All Money Managers Are Not Created Equal.

We are going to see many money managers go out of business or seriously review how they do what they do. The demand is rising to align performance for both risk and return more closely to investors' interests rather than just beating a benchmark or peers in the traditional long-only universe, much as many alternative absolute return strategies do. For long-only managers this will probably lead to a continuation of a trend already in evidence for some time in the asset management industry giving managers more flexibility to perform. This may take the form of allowing managers to hold more cash than they currently do if that seems appropriate to them, among other things.

4. Manager Research Will Become Critically More Important.

Manager research — historically called due diligence — whether for traditional or alternative strategies, is becoming critically more important, particularly in light of the performance record and other challenges of many managers in the 2008 bear market. As important as asset allocation is, the selection of managers to populate our portfolios will be seen as ever more vital to success, especially if we are in a low return and difficult world. How we put managers into a portfolio to do the work we need them to do will be the basis of research. Just consider one example. All large cap managers are not the same. Some are momentum players; others have different processes and philosophies. How we combine them with other equity managers in an overall portfolio will be an important task.

If you would like a complete copy of Tom Robinsons "Thoughts on Investment Lessons from 2008" please let us know. Regardless of whether you manage your own portfolio or have it professionally managed these are the kinds of considerations that need to be made on an ongoing basis. If you or someone you know would like a free review of your portfolio we would be pleased to work with our associates at Oppenheimer to provide this service.

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Upcoming Changes in Roth IRAs

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To convert or not to convert. That is the question. Many people make too much income to either contribute to a Roth IRA or convert a traditional IRA to a Roth IRA. However, existing tax rules from 2006 that take effect the beginning of 2010 will give higher income people the option of converting their traditional IRA to a Roth IRA.

This change in Roth IRAs comes at a favorable time because many IRAs have dropped significantly in value, which means the taxes on such conversions should be lower.

Background

Currently, you are not allowed to convert a traditional IRA account to a Roth if your modified adjusted gross income exceeds $100,000. But, beginning January 1, 2010, this $100,000 income limitation is eliminated, because of provisions in the Tax Increase Prevention and Reconciliation Act (known as TIPRA) passed in May 2006. With the removal of this modified adjusted gross income limitation beginning next year, people with high incomes can now consider whether the advantages of a Roth IRA will be worthwhile.

Income taxes are payable on your traditional IRA when you withdraw the money, either years from now in retirement or immediately if you convert to a Roth.

However, there is a *one-time* opportunity for conversions that occur in year 2010. To help people pay for the tax on a 2010 conversion, the amount of income from the conversion can be spread equally over the tax returns for years 2011 and 2012, thus delaying when the tax has to be paid. A conversion done in 2011 or after will not get this one-time opportunity to spread over 2 years.

Generally, income tax is based on the fair market value of the IRA at conversion. If your traditional IRA includes both deductible and non-deductible contributions, then there is no income tax on the non-deductible contributions at conversion, but there is income tax on the earnings and market value gains on those non-deductible contributions. You cannot choose which portion of traditional IRAs to convert to a Roth, a prorated portion of both deductible contributions and non-deductible contributions must be done.

You don't have to convert the entire balance of a traditional IRA to a Roth IRA, a partial balance can be converted, which allows flexibility.

There is no penalty for converting a traditional IRA to a Roth IRA before age 59 1/2. But, there is a 10% early withdrawal penalty if funds are not converted and instead are distributed to you before age 59 1/2.

Married couples filing separately cannot convert to a Roth IRA prior to 2010. Also a traditional IRA that was inherited from someone other than a spouse cannot be converted to a Roth.

Roth IRA vs. traditional IRA

Money contributed into a traditional IRA is generally tax deductible unless you are an active participant in a qualified employer plan like a 401(k). If you or your spouse are an active participant in an employer plan, then your tax deduction is limited and is subject to a phase out based on your income. For many higher income people, they do not qualify for a tax deductible contribution to a traditional IRA. Money withdrawn from a traditional IRA is generally taxable.

Money contributed into a Roth is never tax deductible. Active participation in an employer plan is irrelevant. Many higher income people also cannot contribute to a Roth because their income is too high. However, beginning in 2010 higher income people will be able to convert any existing traditional IRAs to a Roth IRA. The benefit of a Roth is that withdrawals are penalty and income tax free if you are at least 59 1/2 and have held the Roth at least 5 years. The 5 year holding period goes through the last day of the 5th year.

A traditional IRA requires minimum distributions after age 70 1/2 is reached. There are no required distributions for a Roth.

Like a traditional IRA, the value of a Roth IRA is included in an estate's value, and heirs must take required minimum distributions from an inherited Roth. However, heirs don't owe income taxes on distributions if the Roth IRA owner qualified to take tax free distributions before he or she died.

Unlike traditional IRAs, contributions can continue to be made into a Roth IRA after reaching age 70 1/2 assuming your income level qualifies.

Other considerations

The additional income from conversion, could put you in a higher tax bracket. Converting a portion of a traditional IRA instead of the entire balance may help control this.

The money to pay for the taxes should come from a source other than from the IRA, otherwise it defeats the purpose of maximizing the long-term growth in value of the Roth.

If you believe your retirement income level or future increases in tax rates will put you in a tax bracket that is higher when you retire than it is today, a conversion to a Roth IRA may be worthwhile. Conversely, if you think your tax bracket will be lower when you retire it might be better not to convert your traditional IRA, depending on how much your expected tax bracket drops and how many years will pass before you retire.

Let us know if we can help you decide whether to convert or not to convert.

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Payroll Services

COBRA

Payroll Team

COBRA should be a familiar term to most employers, since it has been around since the mid 1980's. It requires employers with 20 or more employees to offer continued health care coverage to employees who experience some sort of qualifying event (i.e. termination, voluntary or involuntary) at group rates. There are lots of specific guidelines as to:

- Who is counted when determining whether you have 20 employees?
- What health care coverage has to be offered?
- Who are the qualified beneficiaries?
- What is a qualifying event?
- How long does the COBRA coverage last?
- When must notices be provided and what do they say?

The main purpose of the COBRA act was to allow employees (or their spouses, or grown children) who were covered by health insurance and experienced a qualifying event, the opportunity to pay for personally and continue receiving health care insurance at lower group rates. The important thing that employers needed to know is that they were REQUIRED to have some specific communications with employees who had experienced a qualifying event and that there was an election period that gave the employee so many days to elect the COBRA coverage. The employer was allowed to add on a 2% administrative fee to the monthly cost. The real purpose was to insure that employees had choices about healthcare coverage.

Now fast forward to 2009. Suddenly we are talking about COBRA as if it were a brand new program. The 2009 American Recovery and Reinvestment Act created a temporary subsidy for healthcare premiums for terminated employees to the tune of 65%. Any employee experiencing a qualifying event between September 1, 2008 and December 31, 2009 may elect COBRA coverage even if they had initially declined the election.

What does this mean to employers? First, an employer needs to know if he is required to offer COBRA coverage to terminated employees. Second, if employees have been terminated the employer is required to send specific notices not just to the employee, but to their beneficiaries, as well. Covered employees pay only 35% of the health care insurance premium under the economic stimulus plan. The employer must make up the 65% difference, but collects the refund against payroll taxes due on the federal Form 941, filed quarterly. They are essentially advancing the lion's share of the health care insurance cost for the terminated employees.

If you have any questions about the COBRA subsidy and how it might apply to you and your business, or any other payroll related questions, please contact your accountant or call the payroll team at Fordham Goodfellow at 503-640-1168.

Firm News and Updates

Aaron Eichenbaum became a CPA after passing his final exam in January 2009. Aaron began a rigorous study course for the CPA exam during May of 2008. The exam is made up of four sections, which can be taken one at a time. He studied the material on each exam section for approximately one and a half months, almost every night of the week. All that hard work paid off, he passed each section the first time! He received his certificate on April 1, 2009, just in time to complete his fifth tax season as a CPA. Congratulations Aaron!

Brent Goodfellow, Technology Partner, has had several speaking engagements this year. He most recently presented to the BKR Americas Regional Meeting in May providing a Technology Update. He will also be presenting to attendees at the Wolters Kluwer/CCH User Conference to be held in Washington DC and Thompson Reuters User Conference to be held in Orlando during the months of October and November.

2009 is the third year Fordham Goodfellow has supported a team in the Hood To Coast relay, the "Mother of All Relays". This year, like last year, our team is walking for the Portland To Coast part of the event. While the 2008 the team was full of novices, we learned a lot really fast. This year we now know just how high the mountains are, how hot the sun was, how dark the night was and how fast the other teams blew by us. So we have been training aggressivly. If you find yourself on the way to Seaside, August 28th and 29th look for the Depleted Assets vans. They will be full of the Fordham Goodfellow employees, friends and family members who have been training hard.

Tax Horizon/ *from page 4*

taxpayers would not be able to use the LCM and subnormal goods methods. The new rules would be treated as a change in the method of accounting for inventories, and any resulting adjustment generally would be included in income ratably over a four-year period beginning with the change year.

- For tax years ending after Dec. 31, 2009, all larger corporations and partnerships would be required to file their tax returns electronically (specifically, those required to file Schedule M-3 with their returns).
- For damages paid or incurred after 2010, no deduction would be allowed for punitive damages paid or incurred by the taxpayer, whether upon a judgment or in settlement of a claim. Where the liability for punitive damages is covered by insurance, such damages paid or incurred by the insurer would be included in the gross income of the insured person. The insurer would be required to report such payments to the insured person and to IRS.

Other Revenue Raising Changes

A host of other proposals in the budget are designed to tighten loopholes and reduce the so-called "tax gap" that results from noncompliance. These would include the following changes:

- A business would have to file an information return for post-2009 payments to corporations aggregating $600 or more in a calendar year (except payments to tax exempt corporations).
- For payments made to contractors after 2009, a contractor receiving payments of $600 or more in a calendar year from a particular business would be required to furnish to the business (on Form W-9) the contractor's certified TIN. A business would be required to verify the contractor's TIN with IRS. If a contractor failed to furnish an accurate certified TIN, the business would be required to withhold a flat-rate percentage of gross payments.
- A host of changes would crack down on underreporting of income through the use of accounts and entities in offshore jurisdictions.

While these proposals have not been enacted into law, the Administration's Green Book gives us insight as to what changes are currently being discussed and can give us insight as to what tax proposals have traction and help us with planning opportunities.

Portions of this article were taken from RIA's Federal Tax Updates on Checkpoint Newsstand tab 5/12/2009.

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