

“TAX TALK TODAY”®

ARRA 2009: WHAT YOU SHOULD KNOW

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Brought to you by the IRS and produced by L&M Production Design Group, based in Alexandria, VA, “Tax Talk Today”® is a free, live, monthly interactive Webcast aimed at educating tax professionals on the most contemporary and complex tax issues. Now in its seventh year with over 500,000 viewings, the award-winning series airs monthly at www.TaxTalkToday.tv and programs are archived on the site for one year after each episode. For additional information or to inquire about sponsorship opportunities, please contact Paul Lamonia at (703) 642-6505 or Lamonia@LMpdg.com or visit www.TaxTalkToday.tv.
(Music.)

PHYLLIS GRIMES: This is “Tax Talk Today,” the tax show for the tax pro. Today’s program is “ARRA: What You Should Know.” Hello, I’m Phyllis Grimes, and welcome to “Tax Talk Today.” Today’s program will be the last in the “Tax Talk Today” series brought to you by the Internal Revenue Service. This “Tax Talk Today” program provides you, the tax professional, with the opportunity to interact directly with the IRS and practicing professionals on current tax issues.

Although this is the last “Tax Talk Today” program, the IRS will continue to offer you a number of educational options, including a new live broadcast starting next year, along with Webinars, podcasts and our popular phone forums.

Viewing the “Tax Talk Today” series is an easy way to learn continuing education credits. For today’s program, you will earn one CPE credit. You can purchase CE credits through the “Tax Talk Today” store. You will need the course number which is given at the end of the program. So don’t forget to jot it down.

And we want your questions throughout today’s program. So please, e-mail your questions to: questions@taxtalktoday.tv. Any questions not answered on the program today will be posted to the “Tax Talk Today” Web site under “resources.”

If you’ve not already done so, visit the resource section of our Web site. We’ve posted an outline for today’s program as well as additional valuable information. Now, let’s get on to today’s program: “ARRA: What You Should Know.”

Are your clients complaining that they can’t catch a break on their taxes? This show will cover provisions of the American Recovery and Reinvestment Act of 2009 that will help you provide your clients’ individual 2009 tax returns. IRS and industry experts will discuss the many related credits, deductions and incentives, and how they benefit individuals.

Let’s join our first panel. Today’s moderator is Les Witmer. Les brings to “Tax Talk Today” 23 years of experience with the IRS and is currently a communications consultant in Atlanta. Joining Les is Amy Stanton, branch chief for the Wage & Investment Division of the Internal Revenue Service and Virginia Tarris, tax law specialist, Individual Tax Forms and Publications for the Internal Revenue Service. The complete bios for guests are on the “Tax Talk Today” Web site. Les?

LES WITMER: Thanks, Phyllis. The most widely-publicized provisions of the new stimulus bill was probably the new tax-withholding portion of the law that put extra dollars in taxpayers’ pockets. But the act – the American Recovery and Reinvestment Act, or ARRA as we call it, was also full of many other tax provisions and tax incentives.

I guess a good place to start would be to take a look at what some of these are that really benefit individuals. Amy, could you start us off by maybe highlighting some of the changes?

AMY STANTON: Sure, Les. There are actually three provisions that are tied together with what you just mentioned, and that was the changes to the income tax withholding tables. And the first is the making work pay credit, and the making work pay credit is a \$400 credit for individuals, \$800 for married-filing-joint couples, and it works pretty much the way that it sounds. It's for folks who work, and it's administered a little bit differently, though, than the way that stimulus payments have been in the past.

If you remember the last stimulus payment, it was actually a check that the IRS issued out to folks. Well, the making work pay credit was administered just as you said, with an adjustment to the income tax withholding tables. So back in April, those tables were adjusted, and that was to make the credit available to folks in their paycheck on a weekly basis so that they would get the benefit over time.

The second provision that's tied to the making work pay credit are the economic recovery payments, and that's a one-time \$250 payment that's available to people who receive Social Security benefits, Veterans' Administration benefits, railroad retirement board benefits, and to disabled people who receive SSI. And that benefit was actually administered by those agencies. So that was a payment that was administered to those recipients by those agencies.

The last piece that's tied to the making work pay credit is a credit for certain government retirees – both state and federal. And again, it's a \$250 one-time credit that's available to those folks. The important thing here is that all of those are calculated on the brand new Schedule M. What we learned this past year from the recovery rebate credit was that taxpayers could benefit from having a work sheet or schedule that would walk them through the process, and so we created the new Schedule M, and that's what it does.

The key to completing the Schedule M is to remember that the making work pay credit must be reduced by any economic recovery payment or any credit to the government retirees. And the Schedule M is designed to walk taxpayers and tax practitioners through that process.

MR. WITMER: Okay. Virginia, many times, tax law changes come at the end of the year, which really puts a crunch on everybody, especially forms and pubs to get everything updated. This one came fairly early, and I'm sure that's been a help to you all.

VIRGINIA TARRIS: Well, it certainly has, Les. We were happy to see the tax law changed in February, as opposed to December – which happens occasionally – and this really gave us an opportunity to look at the law, decide how forms needed to be changed or what new forms needed to be made, and gave us an opportunity to do focus group testing.

So we took some of these draft forms and we took them out to the field. We went to various cities and had groups of individuals prepare that specific schedule and asked them, was this easy, was this hard, what was easy, what was hard? And we took their input and we made changes to these forms so that hopefully when they do go out to individuals and tax practitioners

now, they will be easier to use. We had focus group testing with the Schedule M, which Amy mentioned; with Schedule A, Schedule L – which is a new schedule for standard deduction filers; for revised Schedule 8863. So that was a real help to us.

MR. WITMER: One of the other changes to the law was the first-time homeowners credit. Now, has this created a new form, or just changes to existing forms?

MS. TARRIS: This just changed the existing form. So Form 5405, which is the form that you use to figure your first-time homebuyer's credit that you then enter on your tax return, has been revised to take the changes into account.

And the changes in 2009 were really only beneficial changes. They were really very good changes. The credit increased to a maximum amount of \$8,000, so the credit is still 10 percent of your purchase price, with a maximum of \$8,000. The credit is no longer repayable as long as you stay in your principle resident for three years. You can claim the credit even if you are financing the home with tax-exempt mortgage revenue bonds. So those were several of the changes that are very beneficial to the taxpayer.

MR. WITMER: I guess one of the questions that our viewers might have is where can they see these forms? Are these forms out yet? Are they in their final form? What is the situation?

MS. TARRIS: Well, all our draft forms – the draft forms are made available for early release and they are published on a specific site – on irs.gov – and that site is one of the resources that's listed in our ARRA resource page.

MR. WITMER: Okay. And just a reminder that on our tax talk today resource page, we provide a lot of information about what we're going to be talking about, or at least links to it. And also, we'll later be joined by our practitioners during the second segment, where we'll be taking your questions. So if you have any questions, please e-mail them to us.

How big an impact to the basic forms – 1040, 1040-A? Did this require some line adjustment?

MS. TARRIS: Well, we have had to make some adjustments to either wording or placement of various provisions on lines. We have changed – the rebate recovery credit line, of course, would have gone away, otherwise. It is now the line for claiming the making work pay credit and the government retiree credit. We have made changes to the line for unemployment compensation; we have a new line for claiming the refundable portion of the education credit. So there were several changes that were required in these forms.

Instead of using Schedule M for 1040-EZ, the taxpayer will figure the making-work-pay credit on a work sheet on the back of 1040-EZ, so that required a redesign on the back of 1040 EZ.

MR. WITMER: Amy, Virginia mentioned unemployment compensation. Apparently, with the tough year we've had, a lot of people have lost their jobs, and there was some changes to unemployment compensation. What were these?

MS. STANTON: Well, generally, Les, unemployment compensation in the past has been taxable income. For this year, for an individual, the first \$2400 is not taxable. And that applies to an individual – or if you actually had two spouses that were unemployed during the year, that \$2400 would apply to them individually. So it could be \$4800.

As Virginia mentioned, what's important with this change is that you follow the instructions on the line for unemployment on the 1040. And that will tell you to deduct the first \$2400 from your unemployment compensation that you receive on your 1099.

MR. WITMER: And that's just good for 2009?

MS. STANTON: Right.

MR. WITMER: Well, along with losing your job, one of the things that happen, unfortunately, Virginia, is many times people lose health insurance. There were some provisions that impacted this; that helped that person out.

MS. TARRIS: Yes, that's true, Les. Ordinarily, if you have health insurance that is tied into your job, when you leave your job, you can carry over the health insurance through what they call COBRA coverage. And unfortunately, ordinarily, you are obligated to pay 100 percent of the health premiums once you have health insurance through COBRA coverage. And for many people who lose their jobs, this therefore becomes unaffordable.

So one of the changes in ARRA was that the government will subsidize 65 percent of the health insurance premiums that are required to continue COBRA coverage for eligible individuals. And these individuals would have to have been involuntarily terminated – so, laid-off – since September 1st, 2008 through December 31, 2009 – so it's a 16-month window. And they have to elect COBRA coverage.

And, as I said, the government will subsidize 65 percent of the health insurance premiums, and they will do this by having the employer pay the 65 percent of the health insurance premiums, and then claiming an additional payroll credit on Form 941 or one of the associated payroll tax forms.

And this premium assistance is not taxable income to the individual, however there are phase-outs if the individual makes above a certain amount of money. So if they do, they would have to repay that premium assistance on their tax return. If they don't want to repay that and make above the certain amount of money, then they can elect to waive receipt of the premium assistance.

MR. WITMER: Of course, if they got another job or other coverage, it stops.

MS. TARRIS: Absolutely right.

MR. WITMER: One of the existing programs which helped many people is the earned income tax credit. Any changes here under the stimulus bill?

MS. STANTON: Yes, actually, Les. You'll find with a lot of these provisions that what the provisions were intended to do was actually broaden the credits and deductions and bring in more of the benefit to more folks. and the earned income tax credit is one of those examples. It's been increased from 40 percent to 45 percent from the first 12-570 for folks. so that's an increase of 5 percent. So we'll actually make that credit available to more people.

MR. WITMER: How about the additional child credit? Any changes there?

MS. STANTON: Yes. Actually, the additional child tax credit was originally intended to allow people to take the full benefit of the child tax credit. There are occasions when the child tax credit – taxpayers can't take the full credit because their tax isn't high enough. So the additional child tax credit allows people to actually take the full benefit.

And this year, it was broadened to pull more people in, like I talked about with earned income credit. And the limitation was actually lowered from \$8,000 to \$3,000. So that will actually make the credit available to more people.

MR. WITMER: Okay. I think everybody is aware, Virginia, of the cash-for-clunkers program, but there was another provision of the act that provides benefit to somebody that bought a new car during this year.

MS. TARRIS: Yes, that's correct, Les. If you purchase a new vehicle this year, you are allowed to increase your standard deduction or take an additional itemized deduction for the sales and excess taxes that you pay on that new vehicle.

If you are going to increase your standard deduction, there is a new Schedule L which will take that into account. If you are going to claim an itemized deduction, you will use a worksheet on the back of Schedule A and you will enter the amount of the sales and excise tax deduction on a new, a specific, separate line on Schedule A.

The one thing to remember, if you're itemizing, though, is some people who live in states without an income tax claim the general sales tax deduction instead as an itemized deduction. And if you claim the general sales tax deduction, you can't claim this additional vehicle deduction.

MR. WITMER: That's something – you mentioned it's a standard deduction. Now, that's something that is changing a little bit. There are other things that can be claimed that haven't been in the past with a standard deduction.

MS. TARRIS: Yes, that's correct. This year – last year you were allowed to increase your standard deduction for certain real estate taxes up to a limit as well as certain losses from

federally declared disasters. You can take those deductions as an increase to your standard deduction this year as well as the sales and excise tax deduction. That is why we needed a new Schedule L, because there are phase-out limits for eligibility for the excise and sales tax deduction, factoring in that with the two other increased standard deduction amounts made it a little bit difficult to just tell people to put a number in.

Much as Amy was saying, we are trying to make it easier for the people to figure what the deductions are.

MR. WITMER: Now, with all this lead time we talked about for forms and pubs, this has also probably been beneficial for processing. Amy?

MS. STANTON: Actually it has, Les, although there were some provisions that we actually had to implement this year like the first-time homebuyer credit because taxpayers could claim that this year on this year's tax return or file an amended return this year. So there was a little bit of adjustment to that provision early on.

But it actually has given us time to really go through the provisions of the law and change our processing procedures and make sure that those are all up to date. And, as Virginia was saying earlier, it allowed us some additional outreach opportunities through our tax forums in order to get the message out that these were actually available.

And with our software developers' conferences, we were also able to do the same thing. So that was an added benefit this year.

MR. WITMER: Good information. Thanks for providing the background. We'll be joined by our practitioners to discuss these and some of the other aspects of the AARA. But before we do, let's go back to Phyllis for the headline news.

(Music.)

MS. GRIMES: Pre-order tax calendar for small businesses. The 2010 tax calendar for small businesses and self-employed, Publication 1518, is available to pre-order. If you order now, the English version of the 2010 tax calendar will be shipped on November 1st and the Spanish version will be shipped December 1st. You can order online or order by phone by calling 800-829-3676. The online ordering link is on today's resource page.

Form 990 case study now on IRS.gov. Last November's show focused on how to prepare the new Form 990, Return of Organization Exempt from Income Tax. To help illustrate key points and answer important questions about the new Form 990, the IRS has developed a case study about a hypothetical organization: exempt organization for disaster relief or EODR for short.

The case study includes a set of facts describing organizational and financial aspects of EODR and a completed Form 990 based on those facts. A video series walks you through key

reporting issues common to most organizations required to file Form 990. Check out our resource page for the link to the case study.

Deadline for disclosing hidden offshore accounts extended. The Internal Revenue Service has extended the deadline for special voluntary disclosures by taxpayers with unreported income from hidden offshore accounts.

Taxpayers now have until October 15, 2009, to come forward. Under special provisions issued in March, taxpayers with these hidden accounts originally had until September 23, 2009, to come forward. Those taxpayers who do not voluntarily disclose their hidden accounts by the new deadline face much harsher civil penalties, where applicable, and possible criminal prosecution.

The extension will allow tax preparers and attorneys the necessary time to interview and advise their backlog of taxpayers with these hidden accounts and prepare the necessary paperwork to qualify for the special penalty provisions. We have posted a link on today's resource page for more information.

Now let's continue our conversation on ARRA. Joining our panelists are Gerard H. Schreiber Jr., CPA and partner at Schreiber & Schreiber in New Orleans, LA; Donna Rodriguez, CPA and managing partner at Donna L. Rodriguez in The Woodlands, TX. Les?

MR. WITMER: Thanks, Phyllis. Welcome to you both. We were talking, and we highlighted some of the aspects of the act and we talked about the fact that we had some lead time with this. It's probably been lead time for practitioners as well, to look at it, but also lead time to figure out where some of the problems or issues might come up. What are some of the issues that are facing the practitioners that you've seen from react so far?

DONNA RODRIGUEZ: Well, that's one of the issues that I see that is going to be something that tax practitioners as well as taxpayers need to take a look at, has to do with making more pay credit itself. The withholding tables were changed in April to give everybody \$13, roughly, per paycheck, to get this credit in advance to stimulate the economy.

Well, in cases where people had more than one job, or in married couples that have two jobs, this could be a problem because the withholding tables did not take this into account. So in that situation where someone maybe had more than one job, they're getting that extra 13 or so dollars in their paycheck each week.

So one of the things that tax preparers as well as taxpayers should do is to look at this. We still have time now to make changes in the withholding amounts that are being taken. One of the things that I recommend is, on the IRS's Web site, they have what's called a withholding calculator, and it's a very, very good tool to go to taxpayers themselves, because it's a Web site, and walk through the process, and just check to see where they are. And if they find out that they're short in withholding, then they could fill out a new W-4 form and give that to their employer and take out more withholding so that at the end of the year they're not going to come up short, and April 15 come up with a tax liability that otherwise they would not have incurred.

MR. WITMER: Gerry?

GERARD H. SCHREIBER: Yes, I agree. And plus, we have much more lead time than we've had in the past. We're not going through the same fire drill with extenders that we've had in the last couple of years, so with the timing of the act being in the beginning of the year, it's given IRS sufficient time to be able to change the forms, to do outreach, to get all the information up on their Web site. And there is a significant amount of resources that have been devoted to the recovery act, as well as the links that are provided here on the show Web site under resources.

Also, it was mentioned when the act came out and the subject of changing withholding – reissuing the withholding tables, effective April 1st – that individuals who make estimated tax payments should reduce their estimated tax payments because the \$800 or the \$400, or whatever the amount may be under all the scenarios that we'll talk about. They would theoretically be able to reduce their estimated tax payments.

But with all the other complexities or items associated with multiple W-2 forms, and could-be fluctuations in income, and the fact that we're close to the end of the year, some projections, some proper tax planning should be done. And practitioners who look at this show will know the exercise, as far as it goes, with doing proper tax planning.

And I also know that we have some individual taxpayers who do their own returns who may be looking at this show, and they may fit into one of these categories and want to be thinking about this also.

MS. RODRIGUEZ: Another thing, Les, is the people that have fallen into the alternative minimum tax scenario in the past, definitely want to take a look at their withholdings and where they are now, because there are phase-out limits to this credit. And so if they were subject to the alternative minimum tax in the past, they most likely – if nothing has changed in their wages – would be subject to the alternative minimum tax again this year. So they would definitely be people that would want to take this step and talk to their tax preparer or go on the IRS's Web site and go through the withholding calculator just to see where they stand.

MR. SCHREIBER: And our friends with IRS do not want to have a lot of balance-due tax returns, and taxpayers don't want balance-due tax returns. And also, as a consequence of this with many wage-earners, the idea that they may not get back as large a refund as they have in the past, because of reduced withholding, has a traumatic effect upon some people who depend upon this and who plan and would, let's say, claim exemptions accordingly under the premise that they would get money back. So this could be a little confusing, and it's something that you just need to maybe look at now, if you have the chance, with practitioners; if you have clients in this set of circumstances, to try and communicate that to them. And the individual taxpayers who are looking at this and may be in this set of circumstances, also look at this.

MR. WITMER: We've gotten several questions in on things that you've already talked about. I think there is some confusion in this area. Here's one that's maybe kind of an example and hits some of the key points of some of the other questions.

This year the federal income tax deductions were reduced to give the approximate \$400 to families. How will the tax preparer be able to tell how much the client receives? Will this be reflected on the Form W-2? Some of the taxpayers have two or three jobs. This worries me as I do not know how I can tell if they received \$400 on each job. First off, will it be reflected on Form W-2?

MS. TARRIS: Well, the only thing that Form W-2 will reflect is the amount of federal income tax withheld. That amount should be lower because the withholding tax tables have gone down. There will be no other reflection as to whether the individual received the economic recovery payment or anything like that, however.

MR. WITMER: Virginia, I think some of the confusion is, and looking at some of these other questions is that some of the preparers, or some of the people are looking at where on the form is the \$400 going to – if I come up short of the \$400, how do I know – that's already figured in. Isn't that right?

MS. TARRIS: Yes, the Schedule M will tell you how much credit you're entitled to. You will then put that on the appropriate line of your income tax return, either 1040, 1040A or 1040EZ. Then, there is a specific line on your tax return that has you enter how much federal income tax was withheld. So those two amounts are already figured and entered on your tax return.

MR. WITMER: Okay, another thing that might come up is – Amy, you mentioned the \$250 that some retirees will get. What if that retiree is also working and would be subject to a withholding? How does that get calculated?

MS. STANTON: Well, Les, what I would say is, the simplest way to understand this is just to understand that the income tax withholding tables were changed across the board. So anything that taxpayers are having income tax withheld from is going to be impacted by that change to the income tax withholding table. In the instance that you mentioned, a taxpayer you received maybe Social Security benefits or something from the real world retirement board, and worked as well, would also be eligible for the Making Work Pay credit. And that's what the Schedule M is designed to do, is to walk them through what they're actually eligible for.

MR. WITMER: Okay, now, practitioners need to really be concerned with the income level and phase outs of some of the different provisions of this, but Donna also mentioned the AMT. Was there anything done specifically in the act to address what we, I guess, called the AMT patch in the tax?

MS. TARRIS: Yes, Les, for 2009 only, they have increase the AMT exemption amount, so the exemption amounts are \$70,950 if you're married filing jointly or a surviving spouse;

\$46,700 if you're single or head of household; and \$35,475 if you're single. So those amounts were increased in ARRA.

MS. RODRIGUEZ: Les, still with regards to the patch, still would like to point out that with regards to AMT, there still is the phase-out limits. And when Congress enacted the AMT back in 1986, there was no provision made for the inflation index. So the phase-out limits are still the same, and so these exemptions begin to phase out. For individual taxpayers it said 112,500 (dollars), and for married filing jointly it's 150 (thousand dollars). And if you're married separate, it's 75,000 (dollars). So that's something for – again, – taxpayers and tax preparers to be aware of, is these phase-out limits.

MR. WITMER: Amy, we must have hit a hot button with the first-time homebuyers' credit that you talked about because we've gotten several questions in on it. And I think maybe the best way, instead of taking, maybe – talking about the issues, maybe bring that out with some of these questions.

If a client buys a qualifying primary residence and moves into it in 2009, and amends their 2008 return to claim the credit, what happens, if at the end of 2009 they find their modified AGI exceeds the phase-out limits for the credit.

MS. STANTON: Well, the simple answer to that, Les, is that if they qualified in 2008 and they filed their return, then they qualified at the time that they filed. So they qualify for it.

MR. WITMER: And this might be one that's on the mind of others: As a first time homebuyer this year, what action does a client need to perform, and what paperwork is necessary to obtain the \$8,000 credit? Will the financing institution send the paperwork?

MS. RODRIGUEZ: Les, they do not. What needs to happen, again, is the individual would file form 5405 and from that document, they would take from the HUD statement and put the information that the IRS needs to have in order to be able to calculate the credit. One thing to be aware of is that the timeframe is coming up close. You have to have closed on the house or occupied it – if it's a new construction – before December 1st. So in other words, you have to close on or before the end of November to be able to get that credit.

Now, one of the things you talked about – being able to amend your 2008 return or file it on your 2009 return – and that's one of the things that practitioners need to be aware of with regard to tax planning, because this is a very good situation in which tax planning could help your client be able to take this credit when otherwise they might not be able to.

For instance, in the question that you were given, in the tax planning, the individual qualified with the 2008 salary. In 2009 they did not, because they exceeded the phase-out. So in that instance, it was the best thing for that taxpayer to do to amend their return for 2008 and take the credit. Otherwise, they would have lost the credit had they had to file their 2009 return. So these are things that, as tax preparers, we need to be aware of when our clients come to us with these new home purchases to look to see where – if they don't qualify in one year, maybe they do in the other.

MR. WITMER: Here's one. For people that took advantage of the \$7500 first-time homebuyers' credit on their 2008 federal tax return, is there any possibility they will not be required to repay that money under the current rules?

MS. RODRIGUEZ: Under the current rules, as long as – they took it on the 2008?

MR. WITMER: Mm-hmm.

MS. RODRIGUEZ: Under the current rules they would not – the rule stands that they have to repay it. They have to begin repayment starting in 2010. They have to begin the repayment over the next 15 years. So it was kind of like an advance loan to them.

MR. WITMER: We mentioned the amended returns. Here's a question. We've been told it would take up to 16 weeks to process the first-time homebuyers' credit 1040X returns. Is this still true? Can anything be done to speed up the process other than attaching a copy of the HUD-1 purchase documents?

MS. STANTON: And yes, Les, it could actually take up to 16 weeks to process those returns. We've processed, to this point, 1.4 million first-time homebuyer credits, so it has been very, very popular. And it could quite possibly take up to 16 weeks. Attaching any additional documentation to the 5405 or the 1040X will not reduce the timeframe for processing those amended returns.

MR. SCHREIBER: Amy, on original returns, it would still be covered by the extension up until October the 15th. If the taxpayer were to e-file the return and to claim the credit, that may speed up things a little bit. Would that be correct?

MS. STANTON: On original returns? E-filing always speeds up things, and so I would encourage anybody who has a choice between paper and e-file, to always go with the e-file option.

MR. SCHREIBER: So the returns that are coming up – October the 15th – if we have any taxpayers, who qualify for the first-time homebuyers' credit, then e-filing would be their answer.

MR. WITMER: We've gotten several questions on this topic: I have heard that Congress may extend the first-time homebuyers' credit program. Do you know if this is going to happen, and if so, how long will the extension be?

MS. TARRIS: Well, Congress has proposed, or there have been individual members of Congress who have proposed bills that would extend the first-time homebuyers' credit. However, those bills have not been referred out of a committee yet, or really nothing has happened with them yet. So at this time, you cannot say at all that the credit would be extended.

MR. WITMER: I think, Gerry, you mentioned that we don't have extenders so far this year, but we've still got three months left and some of these provisions, here I think all of us are

probably going to have to pay a little attention to. The ones that expire this year – there might be some extensions that do come about at the end of the year which might impact us. So I guess the answer is, stay tuned.

MR. SCHREIBER: Yes, and as I said that, with the recovery act, that the IRS had time to be able to put a lot of information up on the Web site again. And before the filing season, practitioners should become familiar with the information on the Web, FAQs in all these areas, topics, the homebuyers' credit, the standard deduction, the vehicle sales tax and the other credits. The taxpayers and the practitioners should make use of this resource because there's many FAQs, there's a lot of information that is available, and a lot of questions can be answered ahead of time as opposed to going through that fire drill during the filing season.

MS. STANTON: I think that the resources that are particularly useful, Gerry, are – for the first-time homebuyer credit, we've had a lot of questions here already today, and we receive a lot of questions on our customer service line. And on the IRS Web site, there's the frequently asked questions; there's also the scenarios that are very beneficial to taxpayers.

MR. SCHREIBER: Yes, correct. There's eight scenarios which answer a lot of questions as to different problems and issues that taxpayers have. And also, on the Web site there's a page for the residences acquired in '07, the residences acquired in '08 and '09, that it's separated according to the dates acquired. And that also would help you, because the credits differ where the one credit has to be repaid and then the other credit doesn't have to be repaid. So that resource is there and that may answer a lot of questions that practitioners will come up in their day-to-day dealings with clients.

MR. WITMER: Okay, and again, that material that you've all been talking about is linked from our "Tax Talk Today" resource page. And as I mentioned, if you haven't looked at it, take a look at it. There's a lot of valuable information that you all are talking about.

MR. SCHREIBER: And also, if you scroll down on the page, there's also links at the bottom of those Web pages to other Web pages on the same topic. It may be just a little different material: a scenario, or a link to form. And more links will probably be put up as we get closer to the filing season, I'm sure.

MR. WITMER: When I was mentioning the motor vehicle tax deduction, I said the "cash for clunkers" program – we've got some questions on the "cash for clunkers" program, which doesn't have anything, really, to do – that much to do with the tax provisions. But we've gotten several on this issue. There are conflicting opinions as to whether or not "cash for clunker" rebates are other income. Is this rebate taxable or not?

MS. TARRIS: No, there is a specific provision in the "cash for clunkers" law that says that the rebate is not – does not have to be included in income.

MR. WITMER: Okay. A follow-up to something that we talked about: I think it was said that if the sales tax deduction is claimed instead of a state income tax, then the additional deduction for sales tax on a new auto is not allowed. Did I hear that correctly? Is that correct?

MS. TARRIS: Yes. If you claim the sales tax deduction as an itemized deduction on schedule A, then the way you figure your sales tax deduction should take the fact that you've purchased a new automobile into account, so you will not be able to claim a separate and additional itemized deduction for your sales and excise taxes on your new motor vehicle.

MR. WITMER: Okay, let's stay with the motor vehicle tax deduction issues there that practitioners need to really be aware of. I think we touched on some in the first segment, and a question came in on this, but what are some of the other issues that might be involved here that we should know about?

MS. RODRIGUEZ: Well, Les, coming from a state that does not have a state income tax, this provision is one of the deductions that most itemized people – or most people itemizing their taxes take. One of the things to remember is the act relates to new vehicle purchases. It does not mean that if you are a state that does not have an income tax and you take the sales tax deduction on schedule A of your itemizing your deductions, it doesn't mean that you can't take the deduction on used vehicles.

What happens in that instance is, you would do the calculation using the vehicle price of the used vehicle and you would take the general sales tax rate for that specific state – not the taxes that you actually paid, but the sales tax rate for that state. For instance, in Texas, the general sales tax rate for Texas is 6.25 (percent). Now, lots of counties have additional counties for their mass transit or other types of things that increase that sales tax, but you would only be able to take, as an itemized deduction, the general tax rate. And you would add that into any other actual sales tax expenditures that you may have.

So in that scenario, if you are aware of your client or a taxpayer that has purchased a used vehicle and would, most likely, be able to take advantage of the itemization of the sales tax rate, then you would probably want to do some tax planning there and recommend to them that they keep track of all their receipts that have sales tax on them so that they can add all those receipts together – all the sales tax on those receipts – and benefit from the calculation of the actual use – the actual expenditures of the sales tax.

MR. SCHREIBER: Yes, we have a new schedule L this year for the vehicle sales tax to compute the standard deduction. And also on schedule L is the increased standard deduction for real property taxes – the \$500 and \$1000 for married, filing joint – where the individuals pay real estate tax that they are allowed an increase in their standard deduction.

And last year, when this first came into law, we found that it was fairly desirable for many retired taxpayers who had paid off their home mortgage and necessarily didn't have itemized deductions, didn't have large contributions. And they were using the standard deduction and they were fairly happy. Now, with the vehicle sales tax, we have a – it's limited to a \$49,500 purchase price and we do have phase-out amounts for income levels on that.

Again, Virginia mentioned the draft sales tax portion – or I'm sorry, draft tax forms portion of the IRS Web site and I think that it's probably a good thing for practitioners to mark

that link – bookmark it in their Internet Explorer or whatever that they use to be able to access that to start looking at the draft tax forms now, before we get into the filing season.

MR. WITMER: There's one thing that did come out of that – what you were talking about, Donna, is the state tax. You were talking about a state, Texas, that does not have a state tax, but many do and often mirror the federal forms. So I guess that's another thing that practitioners need to be aware of, wherever they are, to see whether their state has mirrored the federal forms and, of course, looking for tax advantages.

On this tax deduction for vehicles, I guess the bottom line is, many practitioners are going to probably figure it out both ways – to see if it's a sales tax, which benefits their client the best, especially if another purchase – a large purchase – was made that had a sales tax.

MR. TARRIS: Most definitely.

MR. SCHREIBER: And for planning purposes, you can communicate to clients that if they have the need for a vehicle that maybe they still have a window to think about this till the end of the year.

MR. WITMER: Till the end of the year?

MR. SCHREIBER: Correct.

MR. WITMER: All right. Here's something we haven't talked about: How will the new opportunity tax credit benefit the taxpayer? Can it be used instead of the Hope or lifetime credit? What are we talking about here, Amy?

MS. STANTON: Well, Les, the American Opportunity tax credit was actually an expansion of the Hope credit and it's different from the lifetime credit. The lifetime credit is still actually available. The American Opportunity tax credit modifies the credit for 2009 and 2010, and it's really designed to pull more people in, make more people eligible to take this credit.

It's been increased from 2 years to 4 years; previously, it was for 2 years of higher education and now, it's for 4 years. It's also been expanded for the types of things that you can include in this credit, and to include course material, which would include books. It's a refundable credit – 40 percent up to the first \$1,000 – and this is reported on Form 8863 and there's been updates to that form to incorporate the changes to the credit.

MS. RODRIGUEZ: One thing I would add, Les, is that oftentimes, universities and schools require that tuition be paid in advance. So beginning the January semester, oftentimes, people have already paid for that in November and December. The act only allows you to take a credit for tuition actually paid in 2009. So any tuition paid in 2008, even though it related to the 2009 school year, would not be eligible for this credit.

MS. TARRIS: And the credit also increased. It is now up to \$2500. So it's figured as 100 percent of the first \$2,000 of qualified expenses and 25 percent of the next \$2,000 of qualified expenses.

And we have a substantially revised Form 8863, which is the education credit form, to factor in the new American Opportunity credit to include the Hope education credit, which is still available for students in the Midwestern disaster areas who had an increased Hope credit that might still be more beneficial than the new American Opportunity credit.

It will include a section for the lifetime learning credit, a section to figure your refundable tax credit and then a section to figure your non-refundable tax credit. And the tax form includes a line to claim your education credits and a separate line to claim your refundable tax credit.

MR. WITMER: Okay. Let's jump back a minute to first-time homebuyers credit; apparently, we need to make a clarification. Is the payment of the first-time homebuyers credit made separately from the tax refund?

MS. TARRIS: No, it is all – it all figures into the bottom line, which is either a net tax due or a net tax balance owed to you.

MS. RODRIGUEZ: That's because it is fully refundable. If you don't owe anything, you would get the \$8,000 in a check.

MS. TARRIS: So you might want to file – (audio break) – if, for whatever reason, you don't actually have a requirement to file a tax return otherwise.

MR. SCHREIBER: And we have one other item with the first-time homebuyers credit – that the \$8,000 can be allocated amongst purchases who qualify – so same family members, brothers and sisters, or siblings may want to buy a residence that if they qualify, they would be able to allocate the \$8,000 amongst themselves. It just can't be more than \$8,000. And that's included in Notice 2009-12, which is on the first-time homebuyers' credit – the resources on the Web site and probably a link to the actual notice on the IRS Web site.

MS. RODRIGUEZ: The only exception to that would be in the case of a husband and wife. In that situation, both husband and wife must qualify for the credit in order for them to get the credit if they're filing jointly.

MR. WITMER: Okay, we were talking about the American Opportunity tax credit – the education credit. There was also a change involving purchase of computers. Now, is that part of that credit, Amy?

MS. STANTON: That actually is not part of that credit, Les. That's part of the 529 plans, and that was updated to allow people to include things like Internet access, software, peripherals in the 529 tuition plans. So it's separate from the tax credit and it falls under the 529 tuition plans.

MR. SCHREIBER: And also, we should remember that softwares who are specifically designed for sports and games is excluded from the credit. So when you're doing your due diligence, if there's a – whatever the – some kind of a game software that's included on the invoice, then of course, that can't be included.

MR. WITMER: Spoilsport. (Laughter.)

MS. STANTON: Educational only.

MR. WITMER: Let's go back to – there's, again, one maybe we need to touch back on. Do self-employed persons get the Making Work Pay tax credit?

MS. TARRIS: Yes, they do. You just need earned income. And you can be self-employed and have earned income also.

MR. WITMER: And that gets to Gerry's point of making adjustments on estimated taxes.

MS. TARRIS: Exactly, right.

MR. SCHREIBER: And then, also realizing that there is a phase-out of the Making Work Pay credit in – (audio break) – you just have to put the pencil to the issue and go ahead and go through the exercise.

MR. WITMER: A retired, married couple, both drawing from their IRA, and one of the two also has W-2 wages and Social Security; will only the one with wages get the credit?

MS. TARRIS: Well, if they're retired, they should both be earning Social Security, I would expect. They would have each received a \$250 economic recovery payment. If the spouse was working, the spouse who's working can also use his or her earned income to figure the Making Work Pay credit that, then, has to be reduced by the amount they received as an economic recovery payment so that if his earned income was about \$12,500, he would be eligible for the full – or the couple would be eligible for the full \$800 Making Work Pay credit.

They would then reduce that by the \$500 economic recovery payment they have received. And then they would get a \$300 Making Work Pay credit on their tax return. That's why schedule M factors in all three types of payments, because you may get all three types of credits or payments, but there's a maximum amount you're entitled to.

MR. WITMER: Okay, so this is really bringing out the point that there's going to be a lot of communication between practitioner and client to make sure, you know, it's not just business as usual, or last year's return. And as you said, Donna, probably some early communication.

MS. RODRIGUEZ: Right. Education and planning and communication is going to be key, especially with this year, with everything that's come down and all the changes that have been made. The IRS does a fabulous job of sending out information weekly. You can get

updates, as well as newsletters, talking about all the changes, giving little bullet points, just reminders – things of that nature that tax preparers can take advantage of.

I often see one that might benefit some of my clients and I'll e-mail it straight out. And it provides the links, if they have additional questions, to the FAQs and things of that nature. So there's just – there's going to be a need for planning, education and communication this tax season especially.

MR. SCHREIBER: We have a lot of small items, but they may amount to a substantial amount, when taken collectively, and benefit the taxpayers.

MR. WITMER: I guess that was the purpose of the bill and putting so many tax provisions into it. One area we haven't talked about that's also in the bill would be energy saving. Gerry, what are some of the benefits that – you said, again, that all adds up – what are some of the things that could add up here?

MR. SCHREIBER: Yes, we have a new energy credit, which is a collective amount of \$1500, which is applicable for 2009 and 2010. And it's one \$1500 amount. It can be claimed out of something like \$500 in '09, \$1,000 in '10. The most important thing is that there is a term in the act called "energy efficiency standards," and that is what defines whether the item manufactured – for instance, exterior doors or windows – whether they meet the energy efficiency standards that are in place as of the date of the act.

So they talk about U and R ratings, and that's something that we probably never have thought about in previous tax seasons. But the practitioners and those doing their own returns are going to have to know what these ratings are to see if the specific item that they purchased qualifies for the credit.

MS. RODRIGUEZ: One thing that everybody needs to remain cognizant of is the fact that this act did get changed – this credit – in that it did increase the standards significantly. So the old standards that may have been applicable in 2006 and 2007, they are no longer the same standards. They've been increased significantly. So that's one thing to be aware of.

MS. TARRIS: Right, and they also increased the type of property that might be eligible for the tax credit, so they added asphalt roofs and stoves that burn biomass fuel. So they kept the old rules for windows, doors and insulation, but added roofs and stoves that burn biomass fuel.

MR. WITMER: We're all getting educated. (Laughter.)

MR. SCHREIBER: Yes, an old idea that I just added insulation to my house and I should get a credit may not apply this year if the manufacturer's standards don't meet the standards that are in the act. Or the fact that I put in a new window or a new exterior door may not necessarily qualify for the credit – that you need to know what the ratings are.

MS. STANTON: Well, and one thing to keep in mind also, Les, to piggyback on what Gerry was saying, is that the manufacturers can certify that they have met the standards provided

in this provision of the act. So that's one thing that taxpayers and practitioners want to be cognizant of, is just making sure that, that certification is there.

MR. SCHREIBER: And I'm sure as this is coming out, IRS will put more on their Web site clarifying this, because it is going to be something that is going to be somewhat confusing. With a \$1500 credit, it's much more than what it was before, when we had the residential energy credit. So there will be more taxpayers looking at it for the increased dollar amount. And also, since we're in October, we have 'til the end of the year, plus 2010, to do this.

MS. TARRIS: And they also increased the amount of the credits you can get for things like solar hot-water heaters and wind turbine property that you might want to use.

MR. WITMER: Okay. Along with energy, I guess one of the things that comes to mind is the high price of gasoline – high price of gas and the mileage factor. Hybrid or electric battery cars were also included in this act, right Amy?

MS. STANTON: That's right, Les. There's actually two provisions. One is the vehicle credits plug-in/electric drive. And that applies to four-wheeled vehicles. And the credit is based on the battery capacity. It could be anywhere from \$2500 to \$7500, depending on the battery capacity. But interesting enough, the second provision is the vehicles credits plug-in/electric, which is for slower-moving two or three-wheeled vehicles. And that credit is up to \$2500.

MR. WITMER: Okay. All right. Here's a question that's come in. We've got just a minute or two left. Let's see if we can get it. It's right at the – reflects on the energy credit. Is it possible for the taxpayer to claim the home energy tax credit in 2010 for a custom-built home – that is, a home for which a contractor will be hired and paid to oversee the new construction, which will included tax credit-eligible, energy-efficient products?

MR. SCHREIBER: Yes, if the taxpayer uses or the contractor uses the materials that meet the specific energy standards in the construction of the house. And it's – (audio break) – by the manufacturer. And knowing that the credit is limited to 15 percent and we think that the taxpayer's basis would need to be reduced by the amount of the credit that they took.

MS. RODRIGUEZ: They would also need to live in the house in 2010 to take the credit.

MS. WITMER: Yeah, there's a second part to this: Is it necessary for the taxpayer to have sold his current home before constructing his new home in order to receive the credits?

MS. RODRIGUEZ: No, they would just have to occupy the new home, right?

MS. TARRIS: As a principal residence.

MS. RODRIGUEZ: Because a lot of people are trying to sell their old home while they move into their new one.

MR. WITMER: All right, a lot of good information. I guess the key here is to stay tuned as some things might change, but do as much looking at this as you can and communicate with your clients. It was a lot of good information. Thank you so much for providing that to us.

I've been the moderator of "Tax Talk Today" for the last 9 years and have had the privilege to work with panel members such as this and others providing you with great information and answering your questions. I've also been fortunate to work with a terrific "Tax Talk Today" production crew. But most importantly, I've been able to provide information to you, who have made this show a success for the past 9 years. Before we say so long, let's go to Phyllis for her closing remarks.

MS. GRIMES: That brings us to the end of today's program, and the end of this series. To receive one CE credit for viewing today's program, click on your account and fill out the evaluation form and include the program ID. The IRS would like to thank you for watching and participating in "Tax Talk Today" over the years.

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(Music.)

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