

TAX PROVISIONS IN THE HOUSING ACT

- by Charles H Moses, III

Certainly you are not surprised to learn that the American Housing Rescue and Foreclosure Prevention Act, P.L. 110-2889 signed into law by President Bush on July 30, 2008 has tax provisions in it, are you? It is known as the "Housing Act" and it certainly does have tax provisions. Here is a brief overview of how this Act may affect your taxes:

- There is first-time homebuyer tax credit of \$7,500 (\$3,750 for married persons filing separately) which is treated as a refund if your tax liability is less than the credit. The unusual feature of this credit is that is payable back to the government over 15 years ratably (accelerated if the residence is sold or ceases to be principal residence). It phases out for Adjusted Gross Income of \$150,000 to \$170,000 for joint filers (\$75,000 to \$95,000 all other filers).
- For 2008 only, there is a property tax deduction allowed for non-itemizers for the State and local property taxes limited to \$1,000 on joint filers (\$500 all other filers).
- Reduced home sale exclusion for some sellers: the \$500,000 exclusion of home sale profits available under current law for joint filers (\$250,000 for all others) will be reduced proportionately for the period of time a home was not used as principal residence. This intended to reach the home owners who are selling their residence, moving into their vacation home and after 2 years selling it, thereby getting the exclusion on both properties. However, it will reach the situation where the owner moves out and rents the property for a period of time and then moves back in before selling. There are some exceptions to protect against unfortunate events such as health or employment change related sales, up to 10 years absence for military or certain government employees.
- Specialized Alternative Minimum Tax (AMT) relief is in the form of removing certain tax exempt interest from the add back to income to determine the AMT base of taxable income. This applies principally to bonds issued after July 30, 2008 that are beneficial to the housing market.
- As an alternative to the tax break to corporations provided in the Economic Stimulus Act of 2008 that permitted bonus first year depreciation deductions for 50% of most machinery, equipment and software placed in service after 2007 and before 2009, the Housing Act permits corporations unable to utilize this bonus depreciation for years after 3/31/08 to elect to claim additional research tax credits or certain minimum tax credits. This is a highly specialized provision that will require particular analysis of your circumstances.
- Information reporting of merchants' credit card transactions will be required effective after 2010. This is to assist IRS with tax compliance by merchants.

These are only summarized versions of the provisions and highlights of the tax changes in the Housing Act. It obviously is necessary that we review your facts to determine any effects this may have on your personal or business situation.