

Congress Passes New Stimulus Legislation	1
Some New Business Incentives.....	2
Important Reminder for Small Exempt Organizations ..	2
Deducting Those Out-of-Pocket Expenses.....	3
Forward This Article to 10 People.....	3
Welcome	5
Quote of the Month Club	6
You Be the Judge Answer	6

March/April 2008

Review Outlook



You Be The Judge

Michael was a general partner in H&H partnership. Michael represented actors and actresses and spent \$33,415 of his own money pursuing the partnership's business. H&H's partnership agreement stated that the partnership would not reimburse expenses incurred outside the partnership. Michael deducted the \$33,415 on his tax return as partnership-related business expenses. After the IRS concluded the expenses were not deductible, even if they were substantiated business expenses, Michael appealed his case to the Tax Court. You be the judge. What is your ruling? *The court's ruling is at the end of this newsletter, but don't look until you have read the articles inside.*

Congress Passes New Stimulus Legislation

Congress has passed an economic stimulus bill designed to put additional cash in qualifying taxpayers' pockets. Here are some of the details:

What does the new legislation do?

The Act actually creates a credit you can claim on your 2008 return (that's the one you will be filing next year). However, it provides that the IRS can pay you this credit amount in advance (hopefully, beginning in May).

How much is the advance payment?

The payment will be as high as \$600 (\$1,200 for a joint return). While the payment will normally be no more than your net income tax liability, qualifying taxpayers will be eligible for a minimum payment of no lower than \$300 (\$600 in the case of a joint return). The amount of the payment will be increased by \$300

for each qualifying child.

Will everyone get it?

No. Higher income taxpayers will not qualify. The amount of the credit (and the advance payment) is phased out at a rate of 5% of your adjusted gross

continued on page 4

eBulletin – As a complimentary service to our clients and friends, Bourgeois Bennett provides individual and business tax information throughout the year via short email alerts. If you would like to receive our eBulletin, simply email Ted Stacey, Director of Tax Services at teds@bb-cpa.com and insert "eBulletin" in the subject line. You will be added to the list. We do not share our lists.

Some New Business Incentives

Somewhat lost in all the rebate publicity is the fact that the Stimulus Act also includes new business incentives.

Section 179 allows businesses to expense the cost of purchased qualifying property that would otherwise be depreciated. The Act increases the amount of property eligible for expensing to \$250,000 in taxable years beginning in 2008. Under the act, the amount of property eligible for expensing is reduced as qualifying acquisitions exceed \$800,000 for the year.

The Act also allows businesses to deduct bonus

depreciation of 50% of the cost of qualifying property placed in service in 2008. The remaining 50% of basis is depreciated under normal rules.

Finally, the Act increases the amount of depreciation allowed for “luxury” automobiles in the first year by \$8,000 if the bonus depreciation is claimed for the vehicle.

These changes do not affect the special expensing and bonus depreciation provisions available to taxpayers located in the Katrina GOZone or in the parishes and counties eligible for extended coverage.

Important Reminder for Small Exempt Organizations

Small tax-exempt organizations whose gross receipts are normally \$25,000 or less have generally not been required to file Form 990, the information return for tax exempt organizations. As we mentioned in our November/December 2007 issue, these organizations are now required to electronically submit Form 990-N, also known as the “e-Postcard”, beginning with tax years ending on or after December 31, 2007.



The e-Postcard is due every year by the 15th day of the 5th month after the close of the organization’s tax year. For example, if your tax year ended on December

31, 2007, the e-Postcard is due May 15, 2008.

To file the e-Postcard, go to the IRS website and click on the “Charities and Non-Profits” tab. You will find a link to the input form. There is no paper version of this form.

You will need the following information to complete the e-Postcard:

- Employer identification number (EIN), also known as a Taxpayer Identification Number (TIN)).
- Your group’s tax year.
- Your group’s legal name and mailing address and any other names the organization uses
- The name and address of a principal officer.
- A website address if the organization has one.

continued on page 5

Deducting Those Out-of-Pocket Expenses

You are a member of a professional partnership. You incur expenses entertaining clients and prospective clients and using your personal vehicle in the business. Since these expenses clearly relate to your partnership activity, you can deduct them on your individual income tax return, right?

Actually, the answer may be no! For you to deduct these expenses, your partnership agreement or firm policy must explicitly require you to pay them personally, without reimbursement. Absent such a requirement, the IRS can deny your deduction.

The agreement can be oral (or even a routine partnership practice tantamount to an agreement),



but we do not recommend this, since oral agreements or informal policies can be difficult to substantiate. Not only should the agreement require you to make such payments personally, it should specifically list the kinds of expenses partners are expected to pay personally without reimbursement.

If you have deductible expenses related to your partnership income, deduct them on Schedule E, page 2 of your Form 1040, right under where you report the partnership income itself. Show the expenses as a separate line item, so the IRS can

properly compare the Schedule K-1 information from the partnership to the amounts reported on your return. Remember, also, to reduce your self employment income by the amount of these expenses.

Forward This Article to 10 People

By Les Nettleton, Director of IT Services

Each day I open my e-mail and included with the relevant e-mails are also two other types: those that will ultimately reward me in some way and those that warn me about some impending doom.

First, those that promise riches, good luck and/or blessings. All I am required to do to receive those graces is forward the message to a certain number of people within a certain time period. And then, like magic, I will receive my just rewards! Surely no one truly believes that Microsoft is testing products and will give them \$245 for each person to which they forward an e-mail. (And just for the record, e-mails cannot be tracked. Sorry, Aunt Judy). And does any one really believe that an exiled ruler in Africa wants to give them \$18 million. Well, apparently some people do – and they seem to be some of my friends

and family members. Hmm. Anyway, while I believe that sometimes wishes come true, the number of e-mails I send is irrelevant.

Seldom are these chain-letter e-mails caught by spam filtering software since they don't fall under the guidelines of spam. However, because real spam is quickly deleted without remorse, they are probably worse than regular spam since they are usually forwarded over and over again.

Then there are the doomsday emails – the urban legends. Recently I got one that warned me not to flash my headlights at another car that had its headlights off because a gang initiation was in process and potential gang members would shoot anyone flashing

continued on page 5

Congress Passes New Stimulus Legislation

Continued from page 1

income above \$75,000 (\$150,000 for joint returns). (Adjusted gross income is the amount at the bottom of page 1 on your return).

Nonresident aliens, estates or trusts, and dependents are not eligible for the credit or advance payment. Further, taxpayers and eligible children must have valid Social Security numbers. A taxpayer with a taxpayer identification number (ITIN) will not qualify.

What must I do to qualify for the advance payment?

All you need to do is file your 2007 income tax return. The IRS will compute the advance payment based on this return.

My aunt is not required to file a tax return because her only income is Social Security and a small amount of bank interest. Will she qualify for the advance payment?

Taxpayers who have earned income, Social Security benefits (including railroad retirement) and certain veterans' benefits of at least \$3,000 will qualify for the advance payment. However, they must file a 2007 tax return to get the payment, even if they don't owe any income tax. The IRS website, www.irs.gov explains how they should complete their return (Form 1040A).

I had very little income in 2007 so I won't qualify for the full advance payment. I'll have a higher income

in 2008. Am I just a victim of poor timing?

No. If you receive a rebate check that is less than the amount of the credit you ultimately compute when you prepare your 2008 tax return, you will be able to claim the remaining credit when you file that return. On the other hand, if you receive a rebate check that is more than the amount of the credit you compute on your 2008 return, you will be able to keep the difference; you are not required to return the excess rebate.

Where can I get more information?

The IRS has created a new webpage about the economic stimulus payments created by the recent legislation (see eBulletin 2008-1). This webpage can be found at www.irs.gov; just click

"Rebate Questions?". The new webpage includes a link to a frequently asked questions (FAQ) section and other useful information. You can also call Ted Stacey in our New Orleans office.

E recommends: The IRS has indicated that it may begin mailing checks in May. However, you will not get a rebate, even if you otherwise qualify, until you file your 2007 return. This is not a year for qualifying taxpayers to delay preparation of their returns. This is also a year to consider direct deposit of any federal refund. The IRS will then direct deposit your rebate payment as well.



Important Reminder for Small Exempt Organizations

Continued from page 2

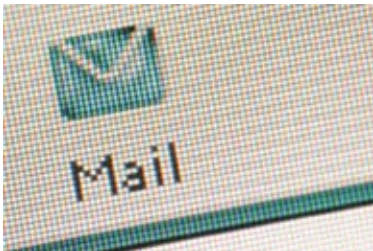
- Confirmation that the organization's annual gross receipts are normally \$25,000 or less.
- If applicable, a statement that the organization has terminated or is terminating (going out of business)

Organizations that are included in a group return and churches, their integrated auxiliaries, and conventions or associations of churches are not required to file.

Tax-exempt organizations with annual gross receipts that are normally greater than \$25,000, private foundations, and section 509(a)(3) supporting organizations cannot file the e-Postcard. They must file form 990 or other appropriate return.

E recommends: *An organization that fails to file required e-Postcards (or information returns – Forms 990 or 990-EZ) for three consecutive years will automatically lose its tax-exempt status. Don't ignore this new filing requirement.*

Forward This Article to 10 People *Continued from page 3*



their headlights. Another warned not to open any attachment titled "Olympic Torch" as that attachment was a virus that would "burn a hole in my hard drive".

(As an aside, you should never open ANY attachments unless you are certain they are valid.)

Urban legend e-mails don't actually cause any harm. They don't contain viruses or spyware. They won't "burn a hole in your hard drive" if you open them. So if they are so innocuous, what's the issue?

Besides cluttering up personal inboxes and e-mail servers, users who pass along these e-mails rarely delete the previously forwarded information. This means the previous recipients' e-mail addresses are readily available. I recently received an e-mail which promised that I would be granted a wish if I passed the e-mail on to 10 people. The previous recipients' list

was on the e-mail. A spammer could have harvested 60 e-mail addresses from that one message alone. A quick way to verify the validity of both of these types of e-mail is to check out www.snopes.com. Their tag line "Rumor Has It" describes their site perfectly as it is the clearing house for urban legends.

E Recommends: *If something looks too good to be true or sounds unbelievable, simply go to Snopes, enter the information into the search box and see if the e-mail is true, false or a bit of both. Should you have any questions about chain or urban legend email, contact Les Nettleton in our Metairie office.*

WELCOME TO BOURGEOIS BENNETT!

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*This written advice is not intended or written to be used, and it cannot be used by any taxpayer, for the purpose of avoiding
penalties. Review and Outlook is written by our Director of Tax Services, Ted Stacey, CPA, to give you a brief overview of
pertinent topics. You should obtain professional advice before making financial or tax decisions.*



You Be The Judge Answer

The Tax Court ruled that the expenses were not deductible. While Michael's partnership agreement stated that he could not get reimbursed, it did not include a provision requiring him to pay the expenses out of his own funds. What's worse, the court approved a negligence penalty!

Quote of the Month Club

“There are two systems of taxation in our country: one for the informed and one for the uninformed.”

-Judge Learned Hand