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Recent Developments that May Affect Your Tax Situation

Deadline extended for closing home purchase to qualify for homebuyer credit. Relief has been provided to taxpayers who couldn't meet a key June 30, 2010, closing date for qualifying for the homebuyer credit. As a general rule, both the regular first-time homebuyer credit of $8,000 and the reduced credit of $6,500 for long-term residents generally expired for homes purchased after April 30, 2010. However, if a written binding contract to purchase a principal residence was entered into before May 1, 2010, the credit could be claimed if the purchase closed before July 1, 2010. Under the relief measure, if a written binding contract to purchase a principal residence was entered into before May 1, 2010, the credit may be claimed if the purchase is closed before October 1, 2010. Thus, this extension allows homebuyers who signed a contract no later than the April 30th deadline to complete their closing by the end of September.

Guidance addresses tax breaks for hiring new employees. Employers are exempted from paying the employer 6.2% share of Social Security (i.e., OASDI) employment taxes on wages paid in 2010 to newly hired qualified individuals. These are workers who: (1) begin employment with the employer after February 3, 2010 and before January 1, 2011, (2) certify by signed affidavit, under penalties of perjury, that they haven't been employed for more than 40-hours during the 60-day period ending on the date the individual begins employment with the qualified employer; (3) do not replace other employees of the employer (unless those employees left voluntarily or for cause), and (4) aren't related to the employer under special definitions. The payroll tax relief applies only for wages paid from March 19, 2010 through December 31, 2010.

Detailed guidance released on new small business health care credit. The IRS has issued detailed guidance on the small employer health insurance credit created by the recently-enacted health reform legislation. Under the new law, effective for tax years beginning after December 31, 2009, an eligible small employer (ESE) may claim a tax credit for non-elective contributions to purchase health insurance for its employees. An ESE is an employer with no more than 25 full-time equivalent employees (FTEs) employed during its tax year, and whose employees have annual full-time equivalent wages that average no more than $50,000. However, the full credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full time equivalent wages from the employer of not more than $25,000. The new guidance adopts a liberal approach to the new law's requirements, including three alternative methods for figuring total hours of service (important for determining how may FTEs an employer has) and also explains how small employers claim the credit if their State provides a credit or subsidy for employee health coverage. The IRS has released a state-by-state table of average health insurance premiums for the small group market for the 2010 tax year. The table is needed to calculate the credit for this year.

Guidance issued on new under-age-27 rule for health coverage of children. The IRS has issued guidance on the tax treatment of health coverage for children under age 27 under the new health reform law. the new under-age-27 rule, which went into effect March 30, 2010, applies broadly to employer-provided coverage or reimbursements, cafeteria plans, flexible spending arrangements (FSAs), health reimbursement arrangements (HRAs), voluntary employees' beneficiary associations (VEBAs), and the above-the-line deduction for a self-employed individual's medical care insurance costs.

Availability of FICA exception for medical residents to be resolved. The Supreme Court has agreed to review a 2009 decision of the Court of Appeals for the Eighth Circuit, which upheld the validity of regulations that generally prevent medical residents from qualifying for the FICA student exception. Under these regulations, an employee including a medical resident who works 40-hours or more for a school, college or university is not eligible for the student exception. The Supreme Court will now decide their validity. Its decision will have important ramifications for the many teaching hospitals and their residents.

States address estate planning uncertainty. As of now, there is no estate or generation-skipping transfer (GST) tax for individuals who die this year. There are issues as to how formula clauses in wills and trusts using estate or GST tax terms (e.g., "the applicable exclusion amount," or "the marital deduction") will be construed, if the decedent dies in 2010. Several states have addressed this situation by enacting laws providing a special rule of construction under which formula clauses that refer to certain estate and GST tax terms generally will be construed as referring to the federal estate tax and GST tax laws which applied to estates of decedents dying on Dec. 31, 2009. These statutes could impact the amount that will pass under one's will to a person's spouse and children.

Deadline extended for retirement plans in federally declared disaster areas in eight States. The IRS has administratively extended to July 30, 2010, the April 30, 2010, deadline for restating affected pre-approved defined contribution plans and, if applicable, for submitting determination letters to the IRS, and the Code Sec. 401(b) remedial amendment period for these retirement plans. The relief applies to sponsors of defined contribution plans that were affected by the storms and other severe weather in counties in Alabama, Connecticut, Massachusetts, Mississippi, New Jersey, Rhode Island, Tennessee and West Virginia that were federally declared disaster areas in the period from March 1 through May 31, 2010.

Therapeutic Discovery Project Program implemented. The IRS has established the guidelines for applying for the new Therapeutic Discovery Project Program created by the recently enacted health reform legislation. The program will provide tax credits and grants to small firms that show significant potential to produce new and cost-saving therapies and increase U.S. competitiveness. Small firms may apply for certification for tax credits or grants under the program on Form 8942, which must be postmarked no later than July 21, 2010.

Temporary regulations fill in statutory gaps on new indoor tanning tax. The IRS has issued temporary regulations on the health reform's legislation's new 10% excise tax on indoor tanning services provided on or after July 1, 2010. The regs address practical considerations that may not have been contemplated when the law was drafted. For example, it addresses prepayments for tanning services and services provided as part of a gym membership.

If you would like additional information, please contact a Gettry Marcus Advisor at info@gettrymarcus.com.