

# Individual Tax Breaks in the Stimulus Bill

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With its new and expanded tax benefits for individuals, the American Recovery and Reinvestment Act of 2009 seeks to get more money into the pockets of American consumers. College students and their families, homebuyers, and buyers of new cars are among the potential beneficiaries, but so too are low-income Americans, with the act's continuation and expansion of such tax breaks as a higher eligibility limit for the earned income tax credit. Here are some of the most prominent features:

**Higher education:** The American opportunity tax credit is a temporary (for tax years beginning in 2009 and 2010) increase and expansion of the Hope scholarship credit (IRC § 25A(i)). It increases the maximum credit per student from \$1,800 to \$2,500 and extends its availability from the first two years of postsecondary education to four years. Nonrefundable under prior law, the credit now becomes 40% refundable. The phaseout range is increased from the current \$50,000–\$60,000 for single filers to \$80,000–\$90,000. The joint filer phaseout, currently \$100,000–\$120,000, increases to \$160,000–\$180,000. Expenses for course materials, such as textbooks, are added to the definition of qualified tuition and related expenses eligible for the credit.

"It's going to involve a tremendous amount of planning for CPAs," particularly where families with college students might be liable for the recently expanded kiddie tax, said Art Auerbach, a tax director at Goodman & Co. LLP in Tysons Corner, Va., and a member of the AICPA's Individual Tax Resource Panel. "If you could get the college student perhaps on their own standing and claiming their own exemption, the fact that part of this credit is refundable is a real benefit."

**Homebuyer's credit:** The act increases the amount of the IRC § 36 first-time homebuyer's credit from \$7,500 to \$8,000 and eliminates the repayment requirement for houses purchased in 2009. The credit, added by the Housing Assistance Act of 2008, P.L. 110-289, is refundable, but for homes purchased between April 9, 2008, and Dec. 31, 2008, it must be recaptured ratably over 15 years, or earlier if the home is sold. The stimulus act waives the recapture requirement for homes purchased after Jan. 1, 2009, and extends the sunset of the credit from June 30, 2009, to Dec. 1, 2009.

The amount of the credit remains 10% of the purchase price of a principal residence of a taxpayer who has not owned a U.S. principal residence in the previous three years. Recapture still applies if the taxpayer disposes of the home or no longer uses it as a principal residence within three years after purchase. The waiver of recapture isn't retroactive to before 2009, Auerbach noted.

"I feel really badly for the people who ran out under the old provision and settled on a house before Dec. 31," Auerbach said. "So they got a \$7,500 credit, but they have a payback that starts in 2010."

**Making work pay credit:** Intended to partially offset an employee's portion of Social Security payroll taxes, this temporary credit is 6.2% of earned income up to a total credit of \$400 for individuals and \$800 for joint filers (IRC § 36A). It is retroactive to the beginning of 2009. It begins phasing out at a rate of 2% of modified adjusted gross income (MAGI) above \$75,000 for individuals and \$150,000 for joint filers.

**New car sales tax deduction:** Buyers of new cars and light trucks may deduct the portion of state and local sales and excise taxes attributable to the first \$49,500 of the vehicle's purchase

price (IRC § 164(b)(6)). This is an above-the-line deduction and is allowed against alternative minimum tax (AMT). The deduction will be phased out for single taxpayers with MAGI in excess of \$125,000 for the tax year (\$250,000 for joint filers). Taxpayers who elect under section 164(b)(5) to take the state and local sales tax deduction in lieu of deducting state and local income tax cannot also take the new car sales tax deduction.

The individual benefit, not to mention economic stimulus, may be negligible if potential buyers of new cars can't get financing, Auerbach said.

"That comes under, in my opinion, 'nice try,'" he said.

**AMT patch:** For 2009, the AMT exemption is increased to \$46,700 for singles and \$70,950 for joint filers (IRC § 55(d)).

**Section 529 plans may buy computers:** For 2009 and 2010, the cost of computers and related technology qualifies as higher education expenses for purposes of the rules governing distributions from a section 529 qualified tuition plan, as long as the beneficiary of the plan is enrolled at an eligible educational institution. Internet access charges are also covered, as well as software, so long as it's not for sports, games or hobbies (unless the software is predominantly educational in nature).

**Qualified transportation fringe benefit increase:** Another reason to vanpool or take public transit to work arrived with a near doubling of the exclusion amount for a transportation fringe benefit from \$120 to \$230 per month (the same as the qualified parking amount) (IRC § 132(f)). This higher limit is effective starting March 2009 and through 2010 with an annual inflation adjustment.

**Child tax credit and other items:** The act extends for 2009 and 2010 the lower, \$3,000 income threshold for refundability of the section 24 child credit, meaning more of it is refundable to low-income taxpayers. Other items directly benefiting less-affluent taxpayers or those in financial distress include a temporary increase in the earned income tax credit for 2009 and 2010, a one-time \$250 payment to persons on fixed incomes not eligible for the making work pay credit and a temporary exclusion of \$2,400 of unemployment benefits from taxable income for 2009