



**ICBA Summary of Key Tax, Financial,  
and Small Business Provisions  
in the  
THE AMERICAN RECOVERY  
AND REINVESTMENT ACT OF 2009  
(Signed into law on February 17, 2009)**

Also see ICBA's updated [\*Proposals for Economic Recovery\*](#)

**Work Tax Credit.** Largest component of tax relief. A refundable tax credit on 6.2% of earned income up to \$400 for working individual and \$800 for working family that phases out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 joint return). For tax years 2009 and 2010. \$116 billion over 10 years.

**Extension of AMT relief for 2009.** More than 26 million taxpayers will benefit from AMT tax relief for 2009. \$70 billion over 10 years.

**Refundable First-time Home Buyer Credit.** First-time homebuyer eligible for \$8,000 refundable tax credit that phases out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 joint return) for taxpayers that purchase home after January 1, 2009, and before December 1, 2009. Credit would be recapture if the house is sold within three years of purchase. \$6.6 billion over 10 years.

**Subchapter S Built-In-Gains Tax Relief.** Under current law, following a conversion to an S Corporation the S Corp. must hold its assets for ten years to prevent a tax on any built-in-gains that existed at the time of the conversion. The Act would temporarily reduce this holding period to prevent the BIG tax from ten years to seven years for sales occurring in 2009 and 2010. \$415 million over 10 years.

**Small Business Administration (SBA) Assistance.** The Act include \$630 million appropriation to boost SBA loan programs by increasing the government guarantees up to 90% and to reduce lender and borrower fees for the popular 7(a) and 504 loan programs. Additional SBA secondary market program included.

**Small Business Expensing.** Allows "section 179" \$250,000 in immediate expensing for capital expenditures incurred in 2009. \$41 million over 10 years.

**Five-Year Net Operating Loss Carryback for Small Businesses.** In general, currently NOLs may be carried back two taxable years and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the NOL carryback period is now extended from 2 years to 5 years for small businesses with gross receipts of \$15 million or less. \$947 million over 10 years.

**Sales Tax Deduction for New Vehicle Purchase.** An above-the-line deduction for state and local sales and excise taxes paid on the purchase of new cars, light truck, recreational vehicles, and motorcycles through December 31, 2009. Phased out for taxpayers with adjusted gross income in excess of \$125,000 (\$250,000 joint return). \$1.7 billion over 10 years.

**Extension of Bonus Depreciation.** Allows businesses to recover the costs of capital expenditures faster than the ordinary depreciation schedule by permitting businesses to immediately write-off fifty percent of the cost of depreciable property capital expenditures incurred in 2009. \$5.1 billion over 10 years.

**Work Opportunity Tax Credit Incentive to Hire.** Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first \$6,000 of wages paid to employees of one of nine targeted groups. The Act would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) “disconnected youth” (age 16-25). \$231 million over 10 years.

**Small Business Capital Gains Relief.** Under current law, Section 1202 provides a fifty percent (50%) exclusion for the gain from the sale of certain small business stock held for more than five years. This provision is limited to individual investments, not the investments of a corporation. The non-excluded portion of the gain is taxed at the lesser of ordinary income rates or 28 percent, instead of the lower capital gains rates for individuals. The Act allows a seventy-five percent (75%) exclusion for individuals on the gain from the sale of certain small business stock held for more than five years for stock issued after February 17, 2009 and before January 1, 2011. \$829 million over 10 years.

**New Markets Tax Credit.** Under current law, there are \$3.5 billion of New Markets Tax Credits available for each of 2008 and 2009. The provision increases the available credits for 2008 to \$5 billion and the available credits for 2009 to \$5 billion. \$815 million over 10 years.

**Bond Tax-Exempt Interest Expense for Financial Institutions.** Under current law, financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution’s investments in tax-exempt municipal bonds. In determining the portion of interest expense that is allocable to investments in tax-exempt municipal bonds, the Act would exclude investments in tax-exempt municipal bonds issued during 2009 and 2010 to the extent that these investments constitute less than two percent (2%) of the average adjusted bases of all the assets of the financial institution. (revenue estimate included with provision below)

**Small-Issuer Exception to Tax-Exempt Interest Expense Rules for Financial Institutions.** Financial institutions are not allowed to take a deduction for the portion of their interest expense that is allocable to such institution's investments in tax-exempt municipal bonds. For purposes of this interest disallowance rule, bonds that are issued by a "qualified small issuers" are not taken into account as investments in tax-exempt municipal bonds. Under current law, a "qualified small issuer" is defined as any issuer that reasonably anticipates that the amount of its tax-exempt obligations (other than certain private activity bonds) will not exceed \$10,000,000. The ACT increases this dollar threshold to \$30,000,000 when determining whether a tax-exempt obligation issued in 2009 and 2010 qualifies for this small issuer exception. The small issuer exception would also apply to an issue if all of the ultimate borrowers in such issue would separately qualify for the exception. For these purposes, the issuer of a qualified 501(c)(3) bond shall be deemed to be the ultimate borrower on whose behalf a bond was issued. These bond interest proposals are estimated at \$3.2 billion over 10 years.

**Low-Income Housing Grants in Lieu of Tax Credits.** Under current law, taxpayers are allowed to claim a low-income housing tax credit for certain investments made in low-income housing. These tax credits help attract private capital to invest in the construction, acquisition, or rehabilitation of qualified low-income housing buildings. Current economic conditions have severely undermined the effectiveness of these tax credits. As a result, the Act would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. Under this provision, States housing agencies would receive a grant equal to up to eighty-five percent (85%) of forty percent (40%) of the state's low-income housing tax credit allocation in lieu of the low-income housing tax credits they would have received. The grant program would apply to each state's 2009 low-income housing tax credit allocation. \$69 million over 10 years.

**Additional Rural Housing and Business Loans.** The bill provides funding to support over \$10 billion in rural housing services single family loan guarantees and nearly \$3 billion to support rural business and industry loan guarantees.

**Increases FHA and Conforming Mortgage Loan Limits.** The Act raises maximum GSE and FHA mortgage loan limit to the 2008 limit of \$729,750 in higher cost areas. This increase is only for 2009. After that, the maximum loan size reverts to \$625,500. For 2009, the Act raises FHA Home Equity Conversion Mortgage (HECM) national loan limit from \$417,000 to \$625,500.

**Neighborhood Stabilization to address Foreclosures.** The Act provides \$2 billion for the Neighborhood Stabilization Program to rehabilitate abandoned and foreclosed properties in communities hardest hit by the foreclosure crisis.

**Delayed Recognition of Certain Cancellation of Debt Income.** Taxpayers generally have "income" where the taxpayer cancels or repurchases its debt for an amount less than its adjusted issue price. The amount of cancellation of debt income ("CODI") is the excess of the old debt's adjusted issue price over the repurchase price. Certain businesses

will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. \$1.6 billion over 10 years.

**Repeal of Treasury Section 382 Notice.** Last year, the Treasury Department issued Notice 2008-83, which liberalized existing limits in the tax code that are intended to prevent taxpayers that acquire companies from using large losses that were incurred by the acquired company prior to the taxpayer's ownership of the company. (e.g., recent Wells Fargo's purchase of Wachovia allowing some \$25 billion in tax savings for Wells) The Act would repeal this Notice prospectively. This provision is estimated to raise \$7 billion over 10 years.

**Energy Incentives.** \$20 billion in various energy tax incentives over 10 years.

**Executive Compensation Limits for TARP Recipients.** The legislation includes limitations on compensation of the most highly-compensated employees in businesses that are recipients of TARP assistance. The new legislation requires the Treasury Secretary to establish executive compensation and corporate governance standards for TARP recipients, which would apply to a TARP recipient as long as the entity had an outstanding TARP obligation. The legislation gives the Secretary the least amount of discretion in the area of bonuses. The legislation prohibits cash bonuses to a certain number of the highest-paid employees and restricts stock bonuses that can be paid to this group. The legislation scales the number of employees affected by these provisions based on the amount of TARP assistance received. The legislation also permits a TARP recipient to repay the assistance received and withdraw from the program. **(For details, read ICBA's [Executive Compensation Summary](#)).**

**Debt Limit Increase.** The Act increases the Nations statutory limit on the public debt by \$789 billion, from \$11.315 billion to \$12.104 billion.