

## The New Tax Act Impact on Dealers and Your Dealership

With the passage of the American Recovery and Reinvestment Property Tax Act of 2009 (the “2009 Recovery Act”, “the Act”), the Dealer Services Group has prepared a brief outline of certain aspects of the new law we feel would be of interest to our clients in the automotive retail industry. The Act is a significant piece of legislation comprised of tax breaks, spending on infrastructure, health care, and alternative energy, in addition to aid to the states and local governments. This outline is intended to provide you with a general understanding of a few of the more pertinent many provisions contained in the new law. We recommend that you consult with your professional tax advisor to obtain a more complete and thorough understanding of the new law and its impact on you or your business. Below are just a few of the items that we feel are most relevant to our auto dealer clients:

### **ADDITIONAL DEDUCTION FOR STATE SALES TAX AND EXCISE TAX ON THE PURCHASE OF CERTAIN MOTOR VEHICLES**

The 2009 Recovery Act provides that qualified motor vehicle taxes are deductible either as part of the standard deduction or as an itemized deduction. The sales tax deduction will be limited to taxes imposed on an amount of \$49,500 or less. An additional limitation will phase out the deduction for those individuals with modified adjusted gross incomes in excess of \$125,000 (\$250,000 for a married couple filing jointly) and the deduction will not be available to a taxpayer who itemizes deductions and makes an election to deduct state and local sales taxes for a qualified motor vehicle with respect to the tax year. This “**above-the-line**” deduction will hopefully stimulate more buyers of your vehicles, and we expect to see this tax savings prominently addressed in dealer advertising over the coming months.

### **CODE SEC. 179 EXPENSE AND BONUS DEPRECIATION**

#### ***Code Sec. 179 Expense Election***

The increased Code Sec. 179 expensing allowance provided for tax years beginning in 2008 is extended one additional year (it was slated to be reduced). Thus, for the years beginning in 2009, the Code Sec. 179 dollar limitation remains at \$250,000 (it was slated to be reduced back to \$125,000), and the investment limitation is \$800,000 (it was slated to be reduced back to \$500,000). This will continue to be a very nice tax deduction for dealerships and dealership groups that do not exceed fixed asset additions exceeding \$800,000.

#### ***Bonus Depreciation***

The Code Sec. 168(k) 50-percent bonus depreciation allowance is extended an additional year to apply to qualifying property acquired by a taxpayer after December 31, 2007, and placed in service before



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January 1, 2010. Bonus depreciation had been slated to end at December 31, 2008, and the Act retro activates its use back to January 1, 2009 and includes purchases through the remainder of 2009.

## ITEMS THAT MIGHT IMPACT YOUR DEALERSHIP RELATED TO YOUR EMPLOYEES

### *Making Work Pay Credit*

This is President Obama's signature provision in the Act, and it is an individual credit that effectively offsets that individual's share of FICA payroll taxes for the first \$6,452 of wages (or \$12,904 if you are married). How it works is the employee is allowed a credit against their income tax in an amount equal to the lesser of 6.2% of their earned income or \$400. This credit will run for two years, beginning retroactively back to January 1, 2009. This credit will apply, in full, to those with modified adjusted gross income of \$150,000, if married, and \$75,000 if single.

### *Earned Income Tax Credit*

The Act increases this credit for the 2009 and 2010 tax years. Prior to the new law, the credit percentage for qualifying taxpayers was 40% of the first \$12,570 of earned income. The Act increases that percentage to 45% of the first \$12,570 of earned income. The new law also has adjusted the credit phase-out by increasing it \$1,880 to eliminate the "marriage penalty" result for joint filers.

As with the Making Work Pay Credit, you can expect to soon receive guidance from the IRS related to these employment tax provisions of the Act.

## ENERGY INCENTIVES FOR ALTERNATIVE POWERED VEHICLES

### *New qualified plug-in electric drive motor vehicle credit*

For taxpayers who acquire vehicles after December 31, 2009, the maximum amount of the new qualified plug-in electric drive motor vehicle credit is \$7,500. If the plug-in vehicle does not have battery capacity of at least 5 kilowatt hours, the minimum credit of \$2,500 applies. When a manufacturer has sold 200,000 plug-in vehicles for use in the United States after December 31, 2009, the phase-out period is triggered applicable to vehicles from that particular manufacturer.

### *CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHICLES*

The 2009 Recovery Act provides a credit equal to 10% percent of the cost of any qualified plug-in electric vehicle ("QPEV" defined below) placed in service by the taxpayer during the tax year. The amount of the credit isn't allowed to exceed \$2,500 per vehicle. The credit isn't available for any vehicle acquired after Dec. 31, 2011.

## ADDITIONAL BUSINESS CHANGES

### **FIVE-YEAR CARRYBACK FOR 2008 NET OPERATING LOSSES OF SMALL BUSINESS**

The Act provides that an eligible small businesses can elect to use an extended three-, four-, or five-year carryback period for 2008 net operating losses. Eligible small businesses that qualify for the extended carryback period for applicable 2008 NOLs must make an affirmative election to use the longer carryback period. Taxpayers can elect to use any carryback period of whole years that is more than two years and less than six years. Eligible small businesses that want to treat an NOL for any tax year beginning in 2008 as an applicable 2008 NOL also must make an election to do so.

### **COBRA PREMIUM SUBSIDY**

The 2009 Recovery Act provides that, for a period not more than nine months, an “assistance eligible individual” (AEI) is treated as having paid any premium required for COBRA continuation coverage under a group health plan if the individual pays 35% of the premium. Thus, if the assistance eligible individual pays 35% of the premium, the group health plan must treat that individual as having paid the full premium required for COBRA continuation coverage, and the individual is effectively entitled to a “subsidy” for 65% of the premium.

## OTHER ITEMS OF INTEREST IN THE ACT THAT PERTAIN TO DEALERS

The 2009 Act also contains several provisions that might impact the personal returns of dealers or their family members:

- a) **First-Time Homebuyers** – increases the tax credit for first-time homebuyers, and is subject to an adjusted gross income phase-out.
- b) **Child Tax Credit** – increases for the next two years (2009 and 2010) the refundable amount of the child tax credit.
- c) **Qualified Tuition Programs** – extends ability to use tax-free distributions from 529 plans to purchase computers, computer technology, and internet access for 2009 and 2010.
- d) **Education Credit** – the HOPE education will now be known as the American Opportunity Tax Credit will now apply to all four years of college and will include course materials as qualifying expenses and have an increased phase-out level.
- e) **AMT Patch** – increases the exemption amounts by small amounts that will insulate approximately 26 million taxpayers from being subject to the Alternative Minimum Tax in 2009.
- f) **Economic Recovery Payment of \$250** – provides a one-time payment to individuals living on fixed incomes (Social Security, railroad retirement, and disabled veterans).
- g) **Estimated tax payments** – Individuals with AGI below \$500,000 with over 50% of their income from a small business may make quarterly estimated tax payments based on 90% of their 2008 tax liability rather than 100%.

## Additional items impacting small businesses include:

- a) **Qualified Small Business Stock** – increase the exclusion of gain from 50% to 75% of certain small business stock acquired and held for longer than five years. This is for businesses with less than \$50 million in assets.
- b) **S Corporation Built-In Gain Period** – decreases the holding period for assets subject to the built-in gains tax from 10 years to 7 years. This applies to C Corporations that convert to S Corporations status in 2009 and 2010.

## IN CLOSING

We hope you have found this outline to be of interest and informative. Again we stress that this is a brief overview of just a few of the many changes contained in The American Recovery and Reinvestment Property Tax Act of 2009. Please remember to consult with your [tax advisor](#) as you implement the provisions of the Act.

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### ***About the Dixon Hughes Dealer Services Group***

The Dealer Services Group of Dixon Hughes, one of the nation's top 20 accounting firms, has over 135 dedicated professionals working exclusively with some of the largest dealerships across the country. Providing our clients with industry thought leaders in our Assurance, Tax and Risk Service Groups, we consult on best practices to help maximize efficiencies, decrease costs and understand risk management. Dealerships need an independent CPA firm to provide an objective view to take their business to the next level. At Dixon Hughes, we deliver on both sides of the service equation. A fact you might find a plus.