



California Society of Tax Consultants
HIGH DESERT CHAPTER
15 CHAPTERS STATEWIDE
Volume 48 October 2009

President's Message

GREETINGS

October and only two more months until Christmas. Is it possible, where has the year gone! I have had some major medical problems with my husband during the month of September, so please excuse the short length of this message

Shari Hardy from the district chapter will be joining the board meeting this time and hopefully for the chapter dinner. The board meeting will be at 4:15 on 10/14/09. All members are welcome at the board meeting.

The chapter dinner will again be served by the students from the Cougar Kitchens. Thank you again. So please get your reservations in to Lynda Cook ON TIME.

Michele' Maiwald
President

Name Scramble: JCWALRIPNDLAER

Speaker and Topic for October 14, 2009

Topic Leader:

Amy Smith

TOPICS:

Ethics

This presentation has been designed to meet the requirements going back to of the Director of Practice of the Internal Revenue Service, the California State Board of Accountancy, and the California Tax Education Council, Business & Professions Code #22250-222859, including Code 31 of Federal Regulations 10.6(g), continuing education rule 88(c) covering maintenance of attendance records, retention of program outlines, qualifications of instructions of instructors and length of class hours. This does not constitute an endorsement by these groups.

REGISTRATION:

5:30 PM

DINNER:

6:00 PM

MEMBERS:

\$ 30.00

MEMBERS/GUESTS:

\$ 40.00

**Price when paying at registration*

LOCATION:

**ST. JOHN EVANGELICAL
LUTHREN CHURCH
16700 GREEN TREE BLVD.
VICTORVILLE, CA**

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CSTC SOCIETY www.cstcsociety.org

The latest Reporter is available online now!

Do not forget to log into the society web page for the latest news, you can also view and print the reporter, and be sure to check out the members' only page and bulletin boards. The log in is:

User ID: **CSTC1000** Password:

TAXSPECIALIST

Past editions of the newsletter for our Chapter are on line at www.cstcsociety.org/HIGHDESERT click on the Calendar/News link to view the education schedules and issues of the newsletter.

GREETER

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Anyone planning to attend a board meeting should contact any board members to confirm their attendance. This month the meeting will be held before the regular dinner meeting at 4:15 pm at the St. John Evangelical Church on October 14.

To assure timely delivery of your monthly newsletter please notify Linda Lee of any change of address, phone number or email address.

Come and Join Us at a Dinner meeting!!

We always look forward to seeing all our members. Take advantage of the opportunity to learn something new or just refresh your knowledge on some interesting topics.

REMINDER Wear your badge to be eligible for the drawing. If you do not have a badge, please tell Judie LaDow, so she can order one for you. If you have lost your badge, replacements are available at a cost of \$15.00, due at the time of ordering.

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FYI

Deadlines Near for Business to Choose Expanded NOL Election; Sept. 15 for Many Corporations, Oct. 15 for Individuals – [IR-2009-079](#) – September 11, 2009

WASHINGTON — Eligible taxpayers must act soon if they want to take advantage of the expanded business loss carryback option included in this year's Recovery law. According to the Internal Revenue Service, eligible calendar-year corporations have until Sept. 15, and eligible individuals have until Oct. 15 to choose this special option.

This carryback provision offers small businesses that lost money in 2008 an excellent way to quickly get some much needed cash if they were profitable in previous years. This option is only available for a limited time, so small businesses should consider it carefully and act before it's too late.

Under the American Recovery and Reinvestment Act (ARRA), enacted in February, many small businesses that had expenses exceeding their income for 2008 can choose to carry the resulting loss back for up to five years, instead of the usual two. This means that a business that had a net operating loss (NOL) in 2008 could carry that loss as far back as tax-year 2003, rather than the usual 2006. Not only could this mean a special tax refund, but the refund could be larger, because the loss is being spread over as many as five tax years, rather than just two.

This option may be particularly helpful to any eligible small business with a large loss in 2008. A small business that chooses this option can benefit by:

- Offsetting the loss against income earned in up to five prior tax years,
- Getting a refund of taxes paid up to five years ago,
- Using up part or all of the loss now, rather than waiting to claim it on future tax returns.

Under ARRA, eligible taxpayers can choose to carry back a NOL arising in a taxable year beginning or ending in 2008 for three, four or five years instead of two. Eligible taxpayers are eligible small businesses (ESB) that have no more than an average of \$15 million in gross receipts over a three-year period ending with the tax year of the NOL. This includes a sole proprietor that qualifies as an ESB, an individual partner in a partnership that qualifies as an ESB and a shareholder in an S corporation that qualifies as an ESB. This choice may be made for only one tax year.

Taxpayers must choose this special carryback by either:

- Attaching a statement to an income tax return for the tax year that begins or ends in 2008 or,
- Claiming a refund on Form 1045, Application for Tentative Refund or Form 1139, Corporation Application for Tentative Refund, or on an amended return for the tax year to which the NOL is being carried back.

Most taxpayers still have time to choose the special carryback and get a refund. A calendar-year corporation that qualifies as an ESB must make this choice by Sept. 15, 2009. For individuals, the deadline is Oct. 15, 2009. Deadlines vary for fiscal-year taxpayers, depending upon when their fiscal year ends and whether they are making the choice for the tax year that ends or begins in 2008.

A calendar-year taxpayer that chooses the special carryback by attaching a statement to the income tax return has until December 31, 2009, to claim the refund on Form 1045 or 1139, or 3 years after the due date (including extensions) for filing the 2008 income tax return to claim a refund on an amended return.

First-Time Homebuyer Credit Provides Tax Benefits to 1.4 Million Families to Date, More Claims Expected - [IR-2009-083](#)

WASHINGTON — With the deadline quickly approaching, the Internal Revenue Service today reminded potential homebuyers they must complete their first-time home purchases before Dec. 1 to qualify for the special first-time homebuyer credit. The American Recovery and Reinvestment Act extended the tax credit, which has provided a tax benefit to more than 1.4 million taxpayers so far.

The credit of up to \$8,000 is generally available to homebuyers with qualifying income levels who have never owned a home or have not owned one in the past three years. The IRS has a new YouTube video and other resources that explain the credit in detail.

The IRS encouraged all eligible homebuyers to take advantage of the first-time homebuyer credit but at the same time cautioned taxpayers to avoid schemes that help ineligible people file false claims for the credit. Currently, the agency is investigating a number of cases of potential fraud and is using computer screening tools to identify questionable claims for the credit.

Because the credit is only in effect for a limited time,

those considering buying a home must act soon to qualify for the credit. Under the Recovery Act, an eligible home purchase must be completed before Dec. 1, 2009. This means that the last day to close on a home is Nov. 30.

The credit cannot be claimed until after the purchase is completed. For purchases made this year before Dec. 1, taxpayers have the option of claiming the credit on their 2008 returns or waiting until next year and claiming it on their 2009 returns.

For those considering a home purchase this fall, here are some other details about the first-time homebuyer credit:

- The credit is 10 percent of the purchase price of the home, with a maximum available credit of \$8,000 for either a single taxpayer or a married couple filing jointly. The limit is \$4,000 for a married person filing a separate return. In most cases, the full credit will be available for homes costing \$80,000 or more.
- The credit reduces the taxpayer's tax bill or increases his or her refund, dollar for dollar. Unlike most tax credits, the first-time homebuyer credit is fully refundable. This means that the credit will be paid to eligible taxpayers, even if they owe no tax or the credit is more than the tax owed.
- Only the purchase of a main home located in the United States qualifies. Vacation homes and rental properties are not eligible.
- A home constructed by the taxpayer only qualifies for the credit if the taxpayer occupies it before Dec. 1, 2009.
- The credit is reduced or eliminated for higher-income taxpayers. The credit is phased out based on the taxpayer's modified adjusted gross income (MAGI). MAGI is adjusted gross income plus various amounts excluded from income—for example, certain foreign income. For a married couple filing a joint return, the phase-out range is \$150,000 to \$170,000. For other taxpayers, the range is \$75,000 to \$95,000. This means the full credit is available for married couples filing a joint return whose MAGI is \$150,000 or less and for other taxpayers whose MAGI is \$75,000 or less.
- The credit must be repaid if, within three years of purchase, the home ceases to be the taxpayer's main home. For example, a taxpayer who claims the credit based on a qualifying purchase on Sept. 1, 2009, must repay the full credit if he or she sells the home or converts it to business or rental use at any time before Sept. 1, 2012.

Taxpayers cannot take the credit even if they buy a main

home before Dec. 1 if:

- The taxpayer's income is too large. This means joint filers with MAGI of \$170,000 and above and other taxpayers with MAGI of \$95,000 and above.
- The taxpayer buys a home from a close relative. This includes a home purchased from the taxpayer's spouse, parent, grandparent, child or grandchild.
- The taxpayer owned another main home at any time during the three years prior to the date of purchase. For a married couple filing a joint return, this requirement applies to both spouses. For example, if the taxpayer bought a home on Sept. 1, 2009, the taxpayer cannot take the credit for that home if he or she owned, or had an ownership interest in, another main home at any time from Sept. 2, 2006, through Sept. 1, 2009.
- The taxpayer is a nonresident alien.

IRS Issues Guidance on 2009 Required Minimum Distribution Waiver - [IR-2009-085](#)

September 24, 2009

WASHINGTON — The Internal Revenue Service today provided guidance for retirement plan administrators, plan participants and retirees regarding recent legislation affecting required minimum distributions. The Worker, Retiree, and Employer Recovery Act of 2008 waives required minimum distributions for 2009 from certain retirement plans.

Generally, a required minimum distribution is the smallest annual amount that must be withdrawn from an IRA or an employer's plan beginning with the year the account owner reaches age 70½. The 2008 law waives required minimum distributions for 2009 for IRAs and defined contribution plans (such as 401(k)s) and allows certain amounts distributed as 2009 required minimum distributions to be rolled over into an IRA or another retirement plan.

[Notice 2009-82](#) provides relief for people who have already received a 2009 required minimum distribution this year. Individuals generally have until the later of Nov. 30, 2009, or 60 days after the date the distribution was received, to roll over the distribution.

The notice also provides guidance for retirement plan sponsors. It contains two sample plan amendments that plan sponsors may adopt or use to amend their plans to either stop or continue 2009 required minimum distributions. Both sample amendments provide that participants and beneficiaries can choose to receive or not to receive 2009 required minimum distributions. Also, both sample amendments allow the employer to offer direct rollover options of certain 2009 required minimum distributions.

Plan sponsors may need to tailor the sample amendment to their plan's particular terms and administration procedures and must adopt the amendment no later than the last day of the first plan year beginning on or after Jan. 1, 2011 (Jan. 1, 2012 for governmental plans).

California

Clarification of the "Cash for Clunkers" Tax Rules - September 2009

The federal "Cash for Clunkers" program has generated a lot of interest among consumers and we have received many inquiries about the tax implications of this popular program. As a result, we are clarifying state tax rules for people who trade in their used vehicle under the "Cash for Clunkers" program.

The "Cash for Clunkers" program, Federal law, H.R. 2346, *The Consumer Assistance to Recycle and Save Program*, allows qualifying consumers to receive a \$3,500 or \$4,500 voucher from the federal government when they trade in qualifying old vehicles and purchase or lease a new one. This federal law provides the value of the voucher received by the consumer is not considered as gross income of the purchaser for purposes of the federal income tax.

California law does not conform to H.R. 2346. For state income tax purposes trade-ins are treated as normal sales or exchanges, and in some cases the value of the voucher received may be subject to state tax. That is to say, the person subtracts his or her basis (generally the cost of the used vehicle) of the car traded-in from the amount

realized (the applicable voucher amount, plus any other salvage value the dealer offers as part of the exchange) to determine whether a gain or loss was realized on the disposition of the used vehicle. For example, if the family car was originally purchased for \$19,500 and traded in for a \$4,500 discount under the "Cash for Clunkers" program, there is no taxable gain. The \$15,000 difference is a personal loss under tax law and may not be deducted for tax purposes. However, if the family car was purchased for \$3,000 and it was traded in for a \$3,500 discount, the \$500 difference needs to be reported as income for state tax purposes.

Different tax rules apply for vehicles used in a person's trade or business. For example, when a person trades in the old company truck for a new company truck, under the "Cash for Clunkers" program, the gain or loss could be postponed for tax purposes under the "like-kind exchange" rules.

Any scrap value received by the consumer for the trade-ins is also used in computing the gain or loss from these sales or exchange transactions.

We will provide instructions about how to report taxable gains for the "Cash for Clunkers" program in its tax return instructions when the 2009 tax forms are published later this year.

COBRA subsidy recipients who later become eligible for insurance coverage should notify their former employer to avoid a penalty

Individuals who have qualified and received the 65 percent subsidy for COBRA health insurance, due to involuntary termination from a prior job, should notify their former employer if they become eligible for other group health coverage.

The American Recovery and Reinvestment Act of 2009 provides a subsidy of 65 percent of the COBRA health insurance premium for employees who are involuntarily terminated from September 30, 2008, to December 31, 2009. The subsidy requires only 35 percent of the premium to be paid for COBRA coverage for individuals, and their families, who have involuntarily lost their job and do not have coverage available elsewhere. The IRS announced the subsidy in a February 26, 2009, information release, IR-2009-15.

If an individual becomes eligible for other group health coverage, they should notify their plan in writing that they are no longer eligible for the COBRA subsidy. The notice that the United States Department of Labor sent to the individual advising them of their right to subsidized COBRA continuation payments includes the form individuals should use to notify the plan that they are eligible for other group health plan coverage or Medicare.

If an individual continues to receive the subsidy after they are eligible for other group health coverage, such as coverage from a new job or Medicare eligibility, the individual may be subject to the new IRC § 6720C penalty of 110 percent of the subsidy provided after they became eligible for the new coverage.

Taxpayers who fail to notify their plan that they are no longer eligible for the COBRA subsidy may wish to self-report that they are subject to the penalty by calling the IRS toll-free at 800-829-1040. In addition, taxpayers will need to notify their plan that they are no longer eligible for the COBRA premium subsidy.

Coming Soon – Resident, Nonresident, and Real Estate Withholding Form and Processing Changes Begin in 2010

October 2009 - Effective January 1, 2010, we will be

implementing changes for withholding forms and payments. The new process will result in fast, accurate processing of withholding forms and payments. You must use our updated forms and procedures to report and pay amounts you have withheld on California source income. Some highlights of the changes are:

- **Payment vouchers** – You must now send all withholding information returns and payments with a payment voucher. Do not send more than one voucher per payment.
- Use form **592-V, Payment Voucher for Resident and Nonresident Withholding Electronic Submission** when submitting a payment for resident and nonresident withholding.
- Use form **593-V, Payment Voucher for Real Estate Withholding Electronic Submission** when submitting a payment for real estate withholding.

The new payment vouchers will be available on our website in January 2010.

- **Faxed forms** - We can no longer process withholding forms sent by fax. Please refer to each form's instructions for submission time frames.
- **Substitute or scannable tax forms** – We will only be able to process FTB forms or FTB approved forms from tax software vendors. For more information, contact our Substitute Forms Program at 916.845.4522, or refer to the FTB Publication 1098, *Annual Requirements and Specifications for the Development and Use of Substitute, Scannable, and Reproduced Tax Forms*.
- **Form 592, Resident and Nonresident Withholding Statement** – We no longer process payee information listed on a separate spreadsheet submitted with FTB Form 592. If side 2 of Form 592 does not accommodate all your payees, you must use additional copies of Side 2 until all payees are listed.

Criminal Corner

Fake CPA, Partner Arrested for Bogus Investment Scheme - September 2009

The owner of a Glendale tax preparation business and his colleague were arrested on multiple felony charges including elder financial abuse, grand theft, state income tax evasion, and state income tax fraud related to their roles in a bogus securities investment scheme, we announced on August 5, 2009.

Donald R. Ford, of Glendale, and Gregory A. Edwards, of Culver City, were remanded into custody after their arraignment Friday. Ford allegedly persuaded clients, whose trust he had gained from his tax preparation business, to invest in a phony investment scheme. Ford, who posed as a certified public accountant and Edwards allegedly, scammed investors by promising them high rates of return on investments. Instead, Ford and Edwards used the money for their own financial gain.

Ford earned more than \$1.3 million in income from the

unlawful scheme and Edwards earned more than \$961,000 for his role in the scam. Ford allegedly failed to report this income on his 2002 and 2006 state income tax returns and owes the state more than \$231,000 in unpaid tax, penalties, and interest. Edwards allegedly failed to report his income on his 2006 state income tax return and owes the state more than \$81,000 in unpaid tax. All income is taxable including income from illegal sources.

Ford and Edwards were both booked into the Los Angeles County Jail and are still in custody. Their bail is set at \$100,000 each. Their next court appearance has not been set.

The filing of false tax returns and the failure to file tax returns is part of the annual \$6.5 billion tax gap facing California. The tax gap is defined as the difference between taxes that are owed and what is paid.



DINNER RESERVATION

**The dinner this month will be catered by
The Granite Hills High Kitchen**

Please reserve _____ place(s) for the dinner meeting of the High Desert Chapter of the California Society of Tax Consultants on Thursday, October 8, 2009.

All reservations must be received by Noon Thursday, October 8, 2009.

Enclosed is my check payable to CSTC for \$ _____.

Advance Registration is \$25.00 for members and \$35.00 for non-members.

There will be an additional charge of \$5.00 for those who do not make advance reservations.

Name: _____

Address: _____

City, St, Zip: _____

Mail to:

Lynda Cook
18930 Hwy 18 # 107
Apple Valley, CA 92307

Reservations can also be emailed to Lynda Cook at taxmam707@aol.com
by October 8, 2009, payment can be made at the meeting.

Meeting Place:

St. John Evangelical Lutheran Church
16700 Green Tree Blvd.
Victorville, CA 92395