

## Taxes: A Policy Tool In The New Economy

Congress has been busy working with President Obama to pass a stimulus package which includes tax provisions impacting individuals and their businesses. The tax law has always been one of the Federal Government's principal tools in promoting desired economic policies. The current crisis will rely heavily on the tax laws to promote the President's recovery objectives. Below are a few of the tax laws which have recently been extended or which are included in the recently enacted American Recovery & Reinvestment Tax Act of 2009 (the "Act") and which are intended to assist recovery of the real estate and housing industries.

### Discharge of Indebtedness Income.

Homeowners who have some or all of their debt forgiven on their home mortgage during a foreclosure or workout may be able to exclude this "debt forgiveness" from income. This relief from getting "kicked while you're down" was created as part of the Mortgage Forgiveness Debt Relief Act in 2007, but had been set to expire this year. The law will now run at least through 2012.

### Residential Real Estate Taxes.

Homeowners who do not itemize their deductions generally do not get any tax break from the real estate taxes they pay on their home. For both 2008 and 2009, taxpayers can

take a deduction for real estate taxes (\$1,000.00 for joint filers and \$500.00 for singles) even if they do not itemize their deductions.

### Amortization for Leasehold and Restaurant Improvements.

The 15 year amortization period for certain qualified leasehold and restaurant improvements has been extended through the end of 2009. This special provision allows depreciation of these qualified leasehold improvements over a 15 year period rather than the normal 39 year period. The same 15 year amortization period applies to certain improvements to retail space.



**Maury B. Reiter**  
Managing Principal

### by Maury B. Reiter

Maury B. Reiter is the Managing Principal and founding member of the firm. His practice areas include business, commercial and real estate law, mergers, acquisitions, financing and other transactions, tax planning wealth preservation and estate planning, employment law and estate planning and administration. Mr. Reiter is a member of the Pennsylvania Institute of Certified Public Accountants and uses his experience as a CPA to provide additional insight to, and understanding of transactions. He is a regular lecturer on various legal and tax-related topics on behalf of the State CPA Societies and the Pennsylvania Bar Institute. Mr. Reiter can be reached at 610.941.2476 or by email to [mreiter@kaplaw.com](mailto:mreiter@kaplaw.com).

### NOL Carryback Period.

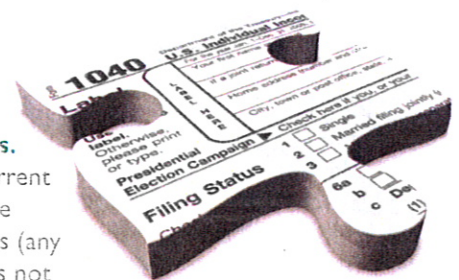
Businesses that generate net operating losses ("NOLs") can carry those back to the 2 prior taxable years if there were any profits in those years. To the extent there are still unused NOLs, businesses can carry those forward for 20 years to use against future profits. The lawmakers had discussed extending the carryback from 2 years to 5 years, but this was rejected as part of the recent Senate proposal. Instead, under the Act only businesses with average gross receipts of \$15 million or less will have the choice of carrying back NOLs incurred in 2008 up to 5 years. The change to a 5 year carryback allows smaller businesses such as real estate

developers who had significant profits in the first part of this decade to recover the taxes paid on those profits by the significant losses they incurred in 2008. Without the extension of the carryback, the ability to use these NOLs any time soon is lost.

### Tax Credit for Homebuyers.

Under current law, first time home buyers (any one who has not owned a home in the last 3 years) can take up to a \$7,500 "credit" against their income taxes, but the credit gets repaid to the Government over a 15 year period (i.e., \$500 additional tax per year). The Act has increased

this credit to \$8,000 and extended it at that level through November 2009. The Act also eliminates any required repayment of the "credit" after 36 months in the home. These enhancements only apply to purchases of homes after December 31, 2008.



*These provisions are just some examples of the Government's use of the tax laws to promote the regime's current economic policies and to help jumpstart the economy. Which provisions actually provide true "stimulus" is a question which can only be answered after the fact.*