

## Business, Real Estate and Construction-Related Highlights

### American Reinvestment & Recovery Act of 2009 and California Senate Bill 15xx

#### 1. Housing-related Provisions

- (a) \$8,000.00 federal income tax credit for first-time home buyers
  - i. Credit phases out for single taxpayers with adjusted gross incomes exceeding \$75,000.00 (\$150,000.00 for married couples filing jointly); credit is not available for single taxpayers with adjusted gross incomes exceeding \$95,000.00 (\$170,000.00 for married couples filing jointly)
  - ii. Not required to be repaid; however, the credit is forfeited / recaptured if the buyer does not live in the home for at least three years
  - iii. Refundable or claimable regardless of tax liability
  - iv. Program is for purchases from January 1, 2009, through and including November 30, 2009
  - v. Buyers are eligible to participate in the mortgage revenue bond program
  - vi. State housing finance agencies can advance the credit at closing as a loan using tax-exempt bond proceeds
- (b) Up to \$10,000.00 state income tax credit for buying a newly constructed, previously unoccupied home -- California Senate Bill 15xx
  - i. Until the \$100 million allocated to the program runs out, a taxpayer who purchases a newly constructed, previously unoccupied home between March 1, 2009 and March 1, 2010 is entitled to a credit against state income tax in the amount of five percent of the price of the home, subject to a \$10,000.00 maximum credit
  - ii. The credit is allocated by the Franchise Tax Board on a first-come, first-served basis, with details and logistics not yet determined
  - iii. The taxpayer realizes the credit over three tax years in equal amounts (i.e. \$3,300.00 for 2009, \$3,300.00 for 2010, etc.)
  - iv. The taxpayer must live in the home for at least two years
  - v. There is no income limitation, and the taxpayer need not be a first-time home buyer
  - vi. There is no repayment requirement (unless the taxpayer fails to live in the home for at least two years)

- (c) A home buyer satisfying all of the following requirements would benefit from both the federal \$8,000.00 tax credit and the California \$10,000.00 tax credit
  - i. A first time home buyer who satisfies the income requirements for the federal credit;
  - ii. Buys a newly constructed, previously unoccupied home before the end of November 2009; and
  - iii. Lives in the home for at least three years.
- (d) Extends the 2008 FHA, Fannie Mae and Freddie Mac loan limits of \$729,750.00 through December 31, 2009
- (e) Extends the reinstatement of the Section 25C home remodeler tax credit through the end of 2010 for purchases to make homes energy efficient, such as new furnaces, heat pumps, insulation and energy-efficient windows, doors and roofing; also increases the credit rate from ten percent to 30 percent, raises the lifetime cap from \$500.00 to \$1,500.00, and expands the set of qualifying property; details on qualifying improvements are found at the Energy Star website  

[http://www.energystar.gov/index.cfm?c=products.pr\\_tax\\_credits](http://www.energystar.gov/index.cfm?c=products.pr_tax_credits)
- (f) Removes dollar caps on the 30 percent residential credit for solar thermal, geothermal and small wind property
- (g) Appropriates \$4 billion to repair and modernize public housing units
- (h) Appropriates \$2.4 billion to help states and local governments purchase and repair housing, including \$100 million for grants to local governments and nonprofit organizations to remove lead-based paint
- (i) Appropriates \$2 billion to redevelop abandoned and foreclosed homes
- (j) Appropriates \$1 billion for community development block grants for local development, including affordable housing programs
- (k) Appropriates \$250 million for constructing and modernizing a network of residential facilities for at-risk youth

## 2. Business-related Provisions

- (a) Extends the temporary bonus depreciation provision that enables companies to deduct 50 percent of the cost of capital investment in depreciable property made in 2009 for use in the United States; businesses may elect to accelerate refunds of research and development credits and alternative minimum tax credits in lieu of the bonus depreciation
- (b) Section 179 Expense -- Permits small businesses to deduct up to \$250,000.00 for capital investments made in 2009, subject to a phase out if capital expenditures exceed \$800,000.00
- (c) Expands the net operating loss carry back period from two years to five years for losses arising in tax year 2008 for small businesses (those with average gross receipts of no more than \$15 million over the previous 3 years)
- (d) Permits banks to deduct 80 percent of the cost of buying and carrying tax-exempt bonds sold by issuers who sell up to \$30 million worth of bonds per year; the \$30 million is an increase from \$10 million
- (e) As an incentive for advanced energy investment, establishes a new 30 percent investment tax credit for manufacturers of advanced energy property, including technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity and carbon capture and sequestration; eligible projects must be certified by the Secretary of the Treasury in consultation with the Secretary of Energy
- (f) Permits certain businesses to defer tax on income that is recognized when they buy back specified types of business debt at a discount after December 31, 2008 and before January 1, 2011; the business may defer tax on the cancellation of debt income for 4 or 5 years, and then prorate recognition over the following 5 years
- (g) Permits individuals to exclude from income 75 percent of the gains from the sale of certain small business stock held for more than five years; the stock must be issued after the new law became effective and before January 1, 2011
- (h) If a taxable corporation converts to Subchapter S status, the corporation must hold its assets for 10 years to avoid tax on any built-in gains that existed at the time of the conversion; the new law temporarily reduces the holding period to 7 years for sales occurring in 2009 and 2010
- (i) As an incentive to hire disadvantaged workers, provides up to \$2,400.00 in tax credits to businesses that hire certain disadvantaged workers, such as unemployed veterans and "disconnected youth"
- (j) Industrial development bonds are tax-exempt bonds issued by a state or local government to finance manufacturing or production of "tangible personal property". The new law

permits small-issue industrial development bonds for "creation of intangible property" in the next two years.

- (k) The new law increases tax credits for gas stations and other businesses that install non-hydrogen, alternative fuel pumps to 50 percent through 2010, for up to \$50,000.00
- (l) To benefit unemployed individuals, the first \$2,400.00 of unemployment insurance benefits in 2009 are exempt from federal income tax
- (m) Appropriates \$500 million to train workers for careers in energy efficiency and renewable energy
- (n) Delays for one year until December 31, 2011, the start of the three percent government contractor withholding requirement

### **3. SBA Lending Provisions**

- (a) Appropriates \$636 million to subsidize loans and loan modifications for the Business Loans Program; \$630 million is designated for implementing fee reductions and new loan guarantee authorities (up to 90%) for Section 7a loans and \$5 million is designated for microloans. Section 7a is the most widely used form of SBA-guaranteed loan; for additional background, check the SBA website

<http://www.sba.gov/services/financialassistance/sbaloantopics/7a/index.html>

- (b) The new law also provides for "small business stabilization financing", which provides small business with a program for refinancing up to \$35,000.00 of existing debt. The program is aimed at helping small business overcome the effect of the credit crunch
- (c) The SBA programs are authorized through September 2010
- (d) In an effort to overcome the freeze in the secondary market for SBA loans, the new law authorizes the SBA to guaranty up to \$3 billion of debt that is bundled for sale in the SBA secondary market. The SBA will charge fees for these guarantees in an effort to keep this guaranty program at no cost to taxpayers

### **4. Energy-related Provisions**

- (a) Extends the production tax credit for wind energy facilities placed in service through 2012 and other renewable energy facilities placed in service through 2013; also permits renewable energy facilities to claim an investment tax credit instead of a production tax credit; removes the cap on investment tax credit for small wind property; allows renewable energy producers to claim a 30 percent cash grant from the Treasury Department in lieu of the 30 percent investment tax credit
- (b) Appropriates \$4.5 billion to make public housing more energy efficient

- (c) Appropriates \$250 million to improve energy efficiency in government-subsidized apartment buildings

## **5. Water-related Provisions**

- (a) Appropriates \$6 billion to wastewater treatment projects and projects to improve the quality of potable water
- (b) Appropriates \$1.4 billion in grants and loans for water supply and waste disposal facilities in rural areas
- (c) Appropriates \$1.0 billion to provide water in rural and western areas affected by drought

## **6. Rural Assistance and Infrastructure**

- (a) Appropriates \$200 million to support loans and loan guaranties to provide homeownership opportunities for low and moderate income families in rural areas
- (b) Appropriates \$150 million to support guaranteed loans and grants for rural business
- (c) Appropriates \$150 million to support guaranteed loans and grants to help rural communities develop essential facilities such as hospitals, health clinics, public buildings and child and elder care facilities
- (d) See above under "water-related" for rural water and waste disposal facilities and projects

## **7. Aid to States**

- (a) \$10.9 billion appropriated to create \$22 billion of new tax credit bonds for building and repairing public school facilities, including acquiring land to build new public schools; authorizes states and local governments to issue another \$1.4 billion in bonds to finance improvements in low-income school districts
- (b) \$5 billion in tax credits for a program that provides incentives for businesses to locate in economically distressed communities
- (c) Authorizes \$2 billion in tax-exempt bonds for use by Native American tribes for economic development (not subject to the current restriction that bonds issued by tribal governments must satisfy an "essential government function" requirement)
- (d) Authorizes \$1.6 billion in renewable energy bonds and \$2.4 billion in energy conservation bonds to finance state and local government projects
- (e) \$400 million to start electrical infrastructure projects that encourage the use of electric vehicles

- (f) Allows states to use private activity bonds to finance trains that can reach a speed of up to 150 miles per hour; under current rules, states can only finance trains that travel at least that speed

## **8. Health-related Provisions**

- (a) Appropriates \$2.3 billion for building or repairing child development centers, health clinics, troop housing, transition facilities and hospitals for the Defense Department
- (b) Appropriates \$1.2 billion for building and repairing veterans' hospitals and cemeteries
- (c) Appropriates \$2 billion for renovations and technology upgrades at community health centers

## **9. Transportation-related Provisions**

- (a) Appropriates \$27.5 billion to states to repair and construct highways or bridges; and to encourage prompt action, reallocates funds that are not spent quickly
- (b) Appropriates \$9.3 billion to expand rail passenger capacity, including grants for high-speed rail projects, and including Amtrak
- (c) Appropriates \$8.4 billion to states to repair and construct infrastructure for public transit; and to encourage prompt action, reallocates funds that are not spent quickly
- (d) Appropriates \$1.5 billion for competitive grants to states and local governments for transportation investments
- (e) Appropriates \$1.3 billion for grants to airports to improve safety or increase capacity, including repairing FAA equipment and facilities

## **10. GSA Facilities -- Appropriates \$4.5 billion to convert GSA facilities to "green buildings"; \$4 million of the total will fund the Office of Federal High Performance Green Buildings**

## **11. Homeland Security-related Provisions**

- (a) Appropriates \$100 million for border security fencing, infrastructure, and technology
- (b) Appropriates \$420 million for planning, managing, designing, altering and constructing U.S. Customs and Border Protection Land Ports of Entry
- (c) Appropriates \$142 million for altering bridges

## **12. Interior and Environment-related Provisions**

- (a) Appropriates to the Bureau of Land Management \$180 million for construction at the discretion of the agency and \$125 million for rehabilitation and maintenance

- (b) Appropriates to the Fish and Wildlife Service \$115 million for construction at the discretion of the agency
- (c) Appropriates to the National Park Service \$146 million for operations and construction; the agency is to set its priorities for projects that create the largest number of jobs in the shortest period of time and that create lasting value for national parks and visitors
- (d) Appropriates to the National Park Service \$589 million for construction, equipment replacement, and rehabilitation
- (e) Appropriates to the Bureau of Indian Affairs \$40 million for programs that maximize jobs, workforce development and training, and housing improvement
- (f) Appropriates to the Bureau of Indian Affairs \$450 million for construction, which is to be allocated to maximize job creation, improvement and repair of critical facilities and maintenance, repair, restoration and replacement of roads, schools and detention centers
- (g) Appropriates \$600 million for the Superfund hazardous materials remedial program

**13. Certain General Restrictions**

- (a) Iron, steel and manufactured works produced in the United States -- No funds appropriated or otherwise made available by the new law are to be used for a public building or public works unless all of the iron, steel and manufactured works are produced in the United States. However, this restriction does not apply if the head of the federal agency or department involved finds: (i) it would be inconsistent with the public interest; (ii) the iron, steel or manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of satisfactory quality; or (iii) using iron, steel or manufactured goods produced in the United States would increase the overall project cost by more than 25 percent. The restriction is to be applied consistent with obligations of the United States under international agreements
- (b) Prevailing Wage Requirement -- All laborers and mechanics employed by contactors and subcontractors on projects funded or assisted through the new law must not be paid less than the wages prevailing in the locality for similar projects as determined by the Secretary of Labor

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