

# PUBLICATION

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## Economic Stimulus Act Of 2008

February 13, 2008

On February 13, 2008, President Bush signed into law the Economic Stimulus Act of 2008 (the Act). The Act has been highly publicized and its intended effect is to help stave off concerns of a recession by providing individual tax rebates, significant business tax incentives, and an increase in government-sponsored enterprises (GSE) and Federal Housing Administration (FHA) conforming loan limits. The following is a brief summary of certain provisions of the Act:

### A. Individual Tax Rebates

The Act provides rebates for eligible individual taxpayers during the 2008 tax year. Most taxpayers will receive a base rebate of \$600 (\$1200 for a married couple filing jointly), plus \$300 per qualifying child. There is no cap on the number of qualifying children. A qualified child is a child under age 17 who lives with the taxpayer more than one half of the year. The amount of the base rebate may not exceed a taxpayer's net income tax liability; however no eligible taxpayer, other than those subject to the phase out provision described below, will receive a rebate of less than \$300 (\$600 for a married couple filing jointly).

The amount of the rebate phases out for taxpayers with adjusted gross incomes above \$75,000 for individuals and \$150,000 for married couples filing jointly for the 2007 tax year. The rebate amount is reduced by 5% of the income amount above these thresholds.

To be eligible for the rebate, taxpayers must have at least \$3,000 of income from any one or more of the following: (1) earnings, (2) Social Security benefits or (3) certain payments to veterans or their survivors. The Act excludes from eligibility nonresident aliens, individuals who may be claimed as a dependent of another taxpayer and estates and trusts.

The Act is expected to provide rebates for at least 130 million individual taxpayers. The IRS expects to start issuing rebate payments in May 2008.

### B. Tax Incentives for Businesses

#### 1. Bonus 50% First-Year Depreciation Allowance for Certain Property.

The Act modifies Section 168(k) of the Internal Revenue Code to permit a bonus first-year depreciation deduction of 50% of the adjusted basis of qualified property acquired and placed in service after December 31, 2007, and before January 1, 2009. The types of property eligible for bonus depreciation will be the same as those eligible under earlier bonus depreciation packages: (1) tangible property with a recovery period not exceeding 20 years; (2) purchased computer software; (3) water utility property; and (4) qualified leasehold improvement property. Bonus depreciation will be allowed for alternative minimum tax as well as for regular tax purposes. The other half of the property's adjusted basis is depreciated under the normal rules applicable to the property. Half-year, mid-quarter and mid-month conventions do not apply when determining the bonus depreciation amount, although those conventions continue to apply to the remaining portion of the property's adjusted basis. Finally, the property's original use must begin with the taxpayer, which means used property will not qualify for the deduction.

## **2. Increase in Expensing for Businesses.**

Under pre-Act law, Section 179 of the Internal Revenue Code allowed businesses to expense up to \$128,000 (as indexed for inflation) of the cost of machinery and equipment (and some other types of Section 179 property) bought for use in business during the taxable year. This annual expensing limit under pre-Act law was reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxpayer's taxable year exceeds \$510,000 (as indexed for inflation). For the taxable year beginning in 2008, the Act will increase the \$128,000 expensing limit to \$250,000 and boosts the overall investment limit from \$510,000 to \$800,000. The Act contains no change to the rule limiting such expensing to the amount of taxable income from the taxpayer's active trades or businesses, therefore these deductions cannot directly create a loss.

Because the Act refers to a "taxable year beginning in 2008," businesses on a fiscal, rather than calendar, tax year should consider deferring purchases of equipment and other Section 179 property until after their fiscal year begins during 2008. The enhanced expensing allowed by the Act is applicable only for taxable years beginning in 2008, and unless extended, this provision would not apply to future taxable years.

### **C. Temporary Increase in Conforming Loan Limits**

In addition to the tax incentives described above, the Act also provides an increase in the conforming-loan limits for loans that the FHA may insure and the GSEs Fannie Mae and Freddie Mac may buy. This provision applies to mortgages entered into after July 1, 2007 and before January 1, 2009. The provision increases the FHA and GSE loan limits to 125% of the median house cost in a local market, to a maximum of \$729,750, and expires December 31, 2008. This measure is intended to help the struggling mortgage market.

In summary, these economic initiatives are intended to bolster the economy and stave off concerns of a recession. As recently reported in the press, many economists believe that a stronger stimulus package is required and some members of Congress are considering adding a second stimulus package. If a second stimulus package is passed, a separate Alert will be forthcoming detailing its provisions.