

2009 TALK ABOUT TAXES

ECONOMIC STIMULUS ACT OF 2008

1. What are some of the highlights of the Economic Stimulus Act of 2008 that was passed by the House and Senate and signed by the President in early February of 2008?

The major highlights of the act include over \$100 billion in rebates (advance payments) for qualifying taxpayers, enhanced small business expensing, the return of bonus depreciation at 50%, and more help for homeowners in foreclosure.

2. Let's talk first about the rebates.

The new law allows a refundable credit against tax (the "recovery rebate credit") to low and middle-income individuals.

The credit is a one-time benefit for people who did not receive the full economic stimulus payment last year and whose circumstances may have changed, making them eligible now for some or all of the unpaid portion.

3. Who is eligible for the recovery rebate credit this year?

People who fall into the categories described below may be eligible for the recovery rebate credit this year:

- Individuals who did not receive an economic stimulus payment.
- Those who received less than the maximum economic stimulus payment in 2008(\$600 per taxpayer; \$1,200 if married filing jointly) because their qualifying or gross income was either too high or too low.
- Families who gained an additional qualifying child in 2008.
- Individuals who could be claimed as a dependent on someone else's tax return in 2007, but who cannot be claimed as a dependent on another return in 2008.
- Individuals who did not have a valid Social Security number in 2007 but who did receive one in 2008.

4. How is the credit calculated?

The credit is calculated as the greater of:

- (1) Net income tax liability, not to exceed \$600 (\$1,200 for joint filers) OR
- (2) \$300 (\$600 for joint filers) if the individual has either
 - (a) at least \$3,000 of any combination of earned income, Social Security benefits and certain veterans' benefits (including survivors of disabled veterans) OR
 - (b) net income tax liability of at least \$1 and gross income greater than the sum of the applicable 2008 basic standard deduction amount and personal exemptions (\$8,950 for single and \$17,900 for joint filers).

Net income tax liability is the excess of the sum of regular tax and alternative minimum tax due reduced by all nonrefundable tax credits, except the child credit.

Dependents and nonresident aliens are not eligible for the rebate.

5. What is the basis of the recovery rebate credit calculation?

The recovery rebate credit is calculated the same way and with the same requirements as the 2008 economic stimulus payment. The only difference is that the credit is based on the tax year 2008 income tax return and the stimulus payment was based on the tax year 2007 income tax return.

6. Why doesn't everyone qualify for the recovery rebate credit?

Most taxpayers have already received their full benefit in advance in the form of the 2008 economic stimulus payment. However, if certain conditions changed for taxpayers in 2008, they may be eligible for an additional benefit.

7. How do I claim the recovery rebate credit?

Generally, a credit adds to the amount of your tax refund or lowers the amount of taxes owed. The amount you receive for the recovery rebate credit will be included as part of your refund, as shown on your tax return. You need to claim the recovery rebate on form 1040, 1040A or 1040EZ. Unlike the economic stimulus payment, the recovery rebate credit will be included in your tax refund for 2008 and will not be issued as a separate payment.

8. Who will figure the credit?

You can let the IRS figure the credit when you file your 2008 Form 1040, 1040A or 1040EZ. If you're filing on paper, simply follow the line-by-line instructions to choose this option. If you're filing electronically, the software will figure the credit for you.

You can also figure the credit yourself. You can figure and claim the recovery rebate credit on your 2008 Form 1040, 1040A or 1040EZ. Two interactive online tools (which are both found on the IRS website at www.irs.gov) will be available to help you with the calculation, the Recovery Rebate Credit Calculator and How Much Was My 2008 Stimulus Payment?

9. I was claimed as a dependent on my parents' 2007 tax return, and was not eligible for the stimulus payment, but I lived on my own in 2008. Do I qualify for the rebate?

That depends on whether you can be claimed as a dependent on your parents' 2008 return. The rebate is based on circumstances that occurred in 2008, while the stimulus payment was based on the 2007 tax return filing information. You'll have to use the tax booklet's worksheet on claiming the recovery rebate credit to see if you're eligible to claim it.

10. My filing status in 2007 was different than it is for 2008. Does this impact the amount of the credit I can claim?

Maybe. That's because married taxpayers who file jointly are each assumed to have received half of the economic stimulus payment. So, if your filing status for 2008 changed to or from Married Filing Jointly or if you remarried in 2008, there is a chart in the Form 1040 instructions that you should follow to determine the amount you need to use when determining the recovery rebate credit.

11. It seems like many tax breaks are phased out if your adjusted gross income is too high. Is that true for the rebate?

Yes, that's true for the rebate. Rebates begin to phase out at \$75,000 of adjusted gross income for individuals and \$150,000 of AGI for married couples filing jointly. Rebates phase out at five percent of the amount exceeding the applicable AGI threshold.

The \$600 credit for individuals, therefore, phases out completely at \$87,000 of AGI, and the \$1,200 credit for joint filers phases out completely at \$174,000 of AGI.

12. If I owe any federal debts, will I still receive a rebate check?

Rebates are subject to offsets for any federal debts owed, including back taxes, unpaid child support or federal student loans.

13. What if I received the economic stimulus payment in 2008 - is it taxable on my 2008 tax return?

No. Economic stimulus payments are not taxable, and they are not reported on 2008 tax returns. However, as mentioned earlier, the stimulus payment does affect whether you can claim the recovery rebate credit and how much credit, if any, you can get.

14. The new law also contains business incentives. Please tell us about the incentives available for businesses.

Two tax incentives are available to businesses. Both incentives are available only in 2008. These incentives are the enhanced Code §179 expensing and bonus depreciation.

15. Let's talk first about the enhanced Code §179 expensing. What changes for 2008 result from the new law?

The new law almost doubles the amount of deductible Code §179 expensing for 2008 from \$128,000 to \$250,000. It applies to property purchased and placed in service in tax years beginning in 2008. The threshold for reducing the deduction is also increased – from \$510,000 to \$800,000. The phase out is a dollar for dollar reduction in the deduction.

Because it applies to property purchased and placed in service in tax years beginning in 2008, businesses not on a calendar year should note that the higher expensing limits will not apply until their new fiscal tax year starts. The IRS developed a new version of the depreciation and amortization form for fiscal year filers that will be designated as Form 4562-FY

The deduction is disallowed if the taxpayer does not have taxable income for the year the property is placed in service. The disallowed deduction may be carried forward to a year that the taxpayer has taxable income.

16. What property qualifies for Code §179 expensing?

The new law does not change the general rules for the types of property that are eligible for expensing. The property must generally be tangible personal property (real property does not qualify), actively used in the taxpayer's business, and for which a depreciation deduction would be allowed. The property must also be used more than 50% for business and must be newly purchased property. Computer software qualifies for the Code §179 expensing.

17. What if I take the Code §179 deduction in 2008, then sell the property that qualified for the deduction in 2009? Am I penalized for this?

If you claim the expensing election and subsequently sell the property or stop using it more than 50% in your business, then you may have to recapture part of the tax benefit that you previously claimed.

18. What about bonus depreciation? Is this back in 2008?

Yes, bonus depreciation is back. And for some taxpayers, it did not lapse (Gulf Opportunity Zone property). Congress has used bonus depreciation several times to encourage business investment.

19. What property is eligible for bonus depreciation?

To be eligible for bonus depreciation, property must be (1) eligible for MACRS depreciation with a depreciation period of 20 years or less; (2) water utility property; (3) off-the-shelf computer software; OR (4) qualified leasehold property. Additionally, the property generally must be purchased and placed in service during 2008. The original use of the property must begin with the taxpayer and must occur after December 31, 2007, and before January 1, 2009.

The placed in service date is extended one year, through December 31, 2009, for property with a recovery period of 10 years or longer, for transportation property (tangible personal property used to transport people or property), and for certain aircraft.

Additionally, there cannot be a binding written contract before January 1, 2008, to acquire the property. Property qualifies only if it is acquired under a binding written contract entered into during 2008. Also, the taxpayer must begin the manufacture, construction, or production of qualifying property for the taxpayer's own use during 2008.

20. Suppose my business is eligible for the bonus depreciation, but I do not want to take it? Must I take it?

Bonus depreciation must be claimed for both regular tax and alternative minimum tax, unless you specifically elect out of it. So if you do not want to take it, make sure you attach the election to not take it to your tax return.

21. Are the limits for luxury autos raised as well?

Yes. The new law also raises the limitations on luxury auto depreciation to \$8,000 if bonus depreciation is claimed for a qualifying vehicle. This results in a maximum first-year depreciation of no more than \$11,060 (\$11,260 for vans or trucks). Remember, however, that if the vehicle is not predominantly used for business in a subsequent year, then bonus depreciation must be recaptured.

22. You mentioned that the stimulus package also contained more help for homeowners in foreclosure. Please tell us more about this.

Sure. Congress continues to enact legislation to assist taxpayers during the sub-prime mortgage crisis. In December of 2007, it passed the Mortgage Forgiveness Debt Relief Act of 2007. Under this Act, in 2008, taxpayers can exclude from gross income forgiveness of qualified indebtedness used to acquire a principal residence if the balance of the loan was less than \$2 million. The limit is \$1 million for a married person filing a separate return.

COVERING THE BASICS

23. What are the other major changes for taxpayers this year?

Some of the highlights are as follows:

1 - **Sales Tax Deductions**

2009 is the last year for the provision allowing individuals who itemize a deduction for state and local sales taxes in lieu of a deduction for state and local income taxes.

2 – **Higher Education Expenses (Tuition & Fees Deduction)**

The deduction for up to \$4,000 of certain higher education expenses is extended through 2009. The amount of the deduction depends on your adjusted gross income (AGI). If your AGI is not more than \$65,000 (\$130,000 if you are married filing jointly), the deduction is \$4,000. If your AGI is more than \$65,000, but not more than \$80,000, your maximum tuition and fees deduction is \$2,000. No tuition and fees deduction is allowed if your AGI is above \$80,000 (\$160,000 if you are married filing jointly). If you claim this credit, Form 8917 will need to be completed and attached to the 1040.

Note that many who qualify for the tuition and fees deduction may reap greater tax savings by instead claiming the Hope credit or the lifetime learning credit for a particular student.

3 – **Educator Expenses Deduction Extended**

If you were an eligible educator in 2008 (elementary and secondary school teachers), you can deduct as an adjustment to income up to \$250 of qualified expenses you paid in 2008. Qualified expenses generally include books, supplies, computers and other equipment, and supplementary materials. After 2009, barring further Congressional action, these expenses will be deductible only as miscellaneous itemized deductions subject to the two-percent of the adjusted gross income floor.

4 – **Health Savings Account (HSA) Deduction**

The 2008 maximum aggregate annual contribution to an HSA is \$2,900 for self-only coverage and \$5,800 for family coverage.

5 – Earned Income Tax Credit

The provision that allows taxpayers to elect to include certain combat pay as earned income for purposes of calculating the earned income tax credit is extended through December 31, 2008.

6 – Gulf Opportunity Zone Bonus Depreciation

The placed-in-service deadline for claiming 50-percent bonus depreciation on nonresidential real and residential rental property located in specified counties and parishes in the Gulf Opportunity Zone is extended to December 31, 2010. Personal property used in such realty also qualifies for the extended deadline.

7 - Alternative Minimum Tax Exemption

Congress raised the alternative minimum tax exemption to \$69,950 for a married couple filing a joint return, up from \$66,250 in 2007. The exemption rises to \$34,975 for a married person filing separately, up from \$33,125, and it rises to \$46,200 for singles and heads of household, up from \$44,350. Under current law, these exemption amounts will drop to \$45,000, \$22,500 and \$33,750, respectively, in 2009.

8 - IRA Deduction Expanded

More people will be able to make tax-deductible contributions to traditional IRAs this year. The deduction is phased out for singles and heads of household who are covered by a workplace retirement plan, with incomes between \$53,000 and \$63,000, compared to \$52,000 to \$62,000 last year. The phase-out range is \$85,000 to \$105,000, up from \$83,000 to \$103,000 last year, if the spouse making the IRA contribution is covered by a workplace retirement plan. Where an IRA contributor, not covered by a workplace retirement plan, is married to someone who is covered, the deduction is phased out if the couple's income is between \$159,000 and \$169,000, up from \$156,000 and \$166,000. The phase out range remains \$0 - \$10,000 for a married individual filing a separate return who is covered by a retirement plan at work.

9 - Rules for Charitable Contributions

To deduct any charitable donation of money, taxpayers must have a bank record or a written communication from the recipient showing the name of the organization and the date and amount of the contribution. Though taxpayers are already required to keep records to support their contribution deductions, this new provision is designed to provide greater certainty, both to taxpayers and the government, in determining what may be deducted as a charitable contribution.

10 - **Standard Mileage Rates Adjusted**

The standard mileage rate for business use of a car, van, pick-up or panel truck is 50.5 cents a mile from January 1, 2008, to June 30, 2008. The rate is 58.5 cents a mile after June 30, 2008. The standard mileage rate for the cost of operating a vehicle for medical reasons or as part of a deductible move is 19 cents a mile (27 cents a mile after June 30, 2008). The standard mileage rate for using a car to provide services to charitable organizations is set by law and remains at 14 cents a mile.

11 - **Inflation Adjustments**

The following items have been adjusted for inflation for 2008:

- The value of each Personal and Dependency exemption is \$3,500.
- The standard deduction is \$10,900 for married couples filing a joint return and qualifying widow(er)s; \$5,450 for singles and married individuals filing separate returns; and \$8,000 for heads of household.
- The maximum earned income tax credit is \$4,824 for taxpayers with two or more qualifying children, \$2,917 for those with one child and \$438 for people with no children.

12 - **Standard Deduction**

Your standard deduction may be increased by:

- Certain state or local real estate taxes you paid in 2008 (the maximum deduction is \$500, or \$1,000 for joint filers), and
- A net disaster loss attributable to a federally declared disaster.

The real estate taxes must be taxes that would have been deductible on Schedule A if you had itemized your deductions.

Your net disaster loss is your personal casualty losses from a federally declared disaster minus any personal casualty gains.

13 - **First-Time Homebuyer Credit**

If you bought a home after April 8, 2008 and before July 1, 2009, and did not own a main home during the prior 3 years, you may be able to take this credit.

If you constructed your main home, you are treated as having bought it on the date you first occupied it.

You cannot take the credit if your modified adjusted gross income is \$95,000 or more (\$170,000 or more if married filing jointly). Homebuyers who qualify are allowed a one-time credit against their income tax for the year of purchase.

This unique credit of up to \$7,500 operates much like an interest-free loan. You generally must repay the credit amount in equal payments over a 15-year period, with no interest charges.

To claim the credit, new Form 5405 must be filed.

14 - **Self-Employment Tax Changes**

For those who receive Social Security Retirement or disability benefits, any Conservation Reserve Program (CRP) payments are now exempt from the 15.3-percent social security self-employment tax. Schedule SE and its instructions have the details.

More farmers and self-employed people this year can choose the optional methods for figuring and paying the self-employment tax. These optional methods allow those with net losses or small amounts of business income a way to obtain up to four credits of Social Security coverage. The income thresholds for both the farm optional method and the nonfarm optional method are increased for 2008 and indexed for inflation in future years. Choosing an optional method may increase a taxpayer's self-employment tax but it may also qualify him for the earned income tax credit, additional child tax credit, child and dependent care credit or self-employed health insurance deduction. Schedule SE and its instructions have details.

15 - **The Heroes Earnings Assistance and Relief Tax (HEART) Act**

This act passed in May 2008, includes a variety of tax cuts for military personnel and veterans, as well as incentives for civilian employers who hold jobs for or continue paying some salary to troops called to duty.

16 - **Mailing your return**

You may be mailing your return to a different address this year because the IRS has changed the filing location for several areas.

24. Does a taxpayer need a Social Security number for dependents?

In order to get a personal exemption or earned income credit, a child must have a Social Security number. If the taxpayer's dependent needs a Social Security number, they should apply for one using the Form SS-5.

25. How can taxpayers directly deposit their refunds? Can their refund be split?

If a taxpayer has either a checking or savings account, you can request refunds to be directly deposited. You may also be able to split the refund into two or three accounts. If you want to split your refund, you will need to check the box on the line for the amount you want refunded to you. Then, complete Form 8888, Direct Deposit of Refund to More Than One Account, and attach it to your return.

GENERAL FILING QUESTIONS

26. What are the basic tax forms that most people use?

As the name implies, the 1040EZ is the easy one. It is for people who are filing as single or married filing joint with no dependents, who have taxable income of less than \$100,000, who do not itemize, are not age 65 or older on January 1, 2009 or blind, among a few other criteria. If you cannot use the Form 1040EZ, you may be able to use the Form 1040A which is somewhat more complicated. However, if you itemize deductions rather than take the standard deduction, you must use the Form 1040.

27. Is it better to itemize?

If you can itemize, you will save more money in taxes. It will take more work for you, but you will save money. Generally, unless you own a home and have paid mortgage interest and real estate taxes, or have made significant charitable contributions it is very hard to find enough items to deduct. To know if you can itemize, your total deductions have to be higher than the standard deduction for your filing status.

28. What is a standard deduction?

In general, with a few exceptions, if you do not itemize, you can deduct the standard deduction from your income to arrive at your taxable income. For 2008 returns, the standard deduction is \$5,450 if you are filing single, \$10,900 if you are married filing jointly or a qualifying widow(er) with dependent children, \$5,450 if married filing separately (and spouse also does not itemize deductions), and \$8,000 if you file as a head of household. Individuals 65 or older or blind can claim an additional amount depending on their filing status.

The standard deduction is often reduced for a taxpayer who qualifies as someone else's dependent.

29. Okay. Now we understand the standard deduction. If you tally up things you can deduct and their total is over the amount of your standard deduction, you should consider itemizing, correct?

Yes, because you would get a larger deduction.

30. What forms do people who itemize use?

Form 1040 is used for people who itemize. They also should attach a list of their deductible items which are listed on another form, called a Schedule A.

31. What does the term “head of household” mean?

The term “head of household” is a filing status. In general, to claim this status you must be unmarried or a surviving spouse and have provided a household for another qualifying person. Also, you may qualify if you were married but you lived apart from your spouse for the last 6 months of 2008 and maintained your home for a child who lived with you for more than half the year. Further, you must pay over half the cost of maintaining a household. The advantage to this status is that the rates and standard deduction are more favorable than filing as single.

32. What are the standard deductions for people who are blind, 65 or over or disabled?

Taxpayers who are age 65 or older or who are blind are entitled to an additional standard deduction. If the taxpayer is married, the additional amount is \$1,050 and if single it is \$1,350. A statement of complete blindness by a physician or optometrist must be attached to the return if blind status is claimed.

Two additional standard deduction amounts are allowed to an individual who is both over 65 and blind. Thus, married taxpayers filing jointly, both of whom are over 65 and blind, would claim four of the additional standard deduction amounts.

For those who are disabled, other than by blindness, there is no additional standard deduction amount. However, they may be able to get a tax credit. Louisiana credits also may be available for blind and disabled individuals.

33. What documents or records should you have when you sit down to do your taxes?

- W-2 for wages paid by your employer
- 1099's for dividends, interest, royalties, etc.
- 1098's for mortgage interest
- all other receipts and or canceled checks for items which may be deducted
- any other documentation for items which may be included in income

34. Let's talk about filing. If you are married, is it better to file your taxes jointly or separately?

Generally, filing jointly will save you taxes. Also, in Louisiana we have community property laws which affect the division of community income and deductions between spouses if they file separately. You should become familiar with the rules before attempting to file separately.

35. Do you file as a married couple even if you are separated?

In general, you must be legally separated under a decree of divorce or separate maintenance in order to file as unmarried. There may be an exception for a person with a dependent child whose spouse is not a member of the household for the last six months of the year. If all the criteria are met, he or she may be able to file as a head of household.

PERSONAL EXEMPTIONS

36. Okay. We have our forms and documents. We know what a standard deduction is. We know whether we should itemize. The next step to consider is exemptions. What exactly are exemptions?

Well, I don't want to give you a real technical answer. Let me just say that exemptions reduce your taxable income. An exemption represents a dollar amount you subtract from income to arrive at taxable income. The amount for 2008 returns is \$3,500. Generally, every taxpayer gets an exemption for himself, unless another taxpayer can claim him as a dependent. Exemptions are available for the taxpayer's spouse and dependents. However, the benefit of the exemption is phased out for certain high income individuals.

37. Tell us about exemptions for dependents.

Dependents are generally people who depend on you financially. Among other criteria, they must receive more than 50% of their support from the taxpayer. Generally, dependents are children, but other individuals, such as elderly parents, may also qualify as dependents. Some of the other conditions that must be met by a dependent involve his/her relationship to the taxpayer, the dependent's amount of gross income and the dependent's citizenship.

38. There are lots of questions that people have about dependents. Let's consider a few. Does a person have to actually live with you to be a dependent?

No. In general, if a person is a near relative, such as a child, grandchild, brother, parent, among others, he or she need not live with the taxpayer to be claimed as a dependent. However, someone such as a cousin would have to live with the taxpayer for the entire year to be claimed. And do not forget this is only one of several conditions that must be met in order to qualify as a dependent.

39. Who gets the exemption for a child if a couple is divorced?

This is a very common issue. In general, the parent who gets to claim the child for an exemption is the custodial parent unless he or she has agreed to transfer this exemption to the non-custodial parent. For either to claim the exemption, one or both of the parents must have provided more than 50% of the child's support and the child must have been in the custody of one or both parents for more than one-half of the calendar year. The custodial parent, for tax years beginning after July 2, 2008, will be determined by the number of nights in which the child resided with the parent. When the child spends an equal amount of time with each parent, the parent with the higher adjusted gross income is allowed to claim the dependency exemption. For parents divorced before 1985, the rules may differ.

40. Is there a special form that must be filed to allow the other parent to claim the exemption?

Either Form 8332 or a similar statement containing the same information required by the form must be completed and signed by the custodial parent and then given to the non-custodial parent. This releases the custodial parent's right to an exemption for the child. The non-custodial parent, who is claiming the exemption, must then attach this Form 8332 or statement to his tax return. This agreement may either be effective for one year or until revoked.

Beginning with 2009 tax returns, a noncustodial parent claiming an exemption for a child can no longer attach certain pages from a divorce decree or separation agreement instead of Form 8332 if the decree or agreement was made after 2008. This noncustodial parent will have to attach Form 8332 or a similar statement signed by the custodial parent and whose only purpose is to release a claim to exemption.

41. What happens if your child is a college student? Can they still be claimed as a dependent?

The important point here is the exclusion from the general rule disqualifying a person as a dependent if he or she has gross income of more than the exemption amount, which for 2008 is \$3,500. This test does not apply if the individual is your child who is either under 19 or a student and under the age 24 at the end of the calendar year. To be considered a student the child must attend a qualified educational institution full-time during 5 months of the year. Note however that the other dependency tests, such as support provided, must also be met.

42. Can a college student work and the parents still claim him as a dependent?

Yes. The general rule is that a dependent can't have gross income over the exemption amount of \$3,500 for 2008 and qualify. However, this does not apply to the taxpayer's child who is under 19 or who is a student under age 24.

43. Are correspondence schools considered qualified educational institutions?

No.

44. What about Vo-Tech schools?

Yes.

SPECIAL HELP FOR LOW-INCOME TAXPAYERS

45. The government has a special tax benefit for low-income taxpayers. Could you explain this special tax break?

It is called the Earned Income Credit. In general, it is for low-income taxpayers. For those who have one qualifying child and who have earned income of less than \$33,995 (single) or \$36,995 (MFJ) in 2008 or more than one qualifying child and earned less than \$38,646 (single) or \$41,646 (MFJ), you would receive a credit. If you do not have a qualifying child, you can earn less than \$12,880 (single) or \$15,880 (MFJ) and still receive a credit. The credit may vary not only with your income level, but with the number of children you have. This is a refundable credit, so even if you owe no taxes or have no tax taken out of your paycheck, you may get money back from the government. One in six taxpayers claim this credit.

46. How do you qualify for the credit?

Basically, you need to make less than the amounts mentioned previously and maintain a house which is the place of abode of the qualifying child for over half of the tax year. The earned income credit is also available to taxpayers that support themselves, meaning no one else is claiming them as a dependent, and they earn less than \$12,880 (single) or \$15,880 (MFJ) in 2008. Further, the person must have earned income as opposed to investment income, since the credit is essentially based on earned income.

47. What do I do to claim the credit?

File Schedule EIC. You can calculate the credit or request the IRS to calculate it for you.

CHILD AND DEPENDENT CARE CREDIT

48. A major social issue in this country is childcare. Let's talk about some tax rules that can help ease the burden of childcare expenses. What's out there to help parents?

There is a child and dependent care credit. This is a tax credit for the expenses incurred for child and dependent care that enable the taxpayer to be gainfully employed or to look for work. This credit is available to an individual who maintains a household for one or more dependents who are either children under the age of 13 or your spouse or dependent who is disabled and unable to care for himself or herself.

49. How does the child care credit work?

If you have qualified child or dependent care expenses, you can reduce your taxes dollar for dollar by the amount of the credit. The credit generally equals 20 to 35 percent of your expenses, depending on your income. However, the maximum amount of expenses to which the credit may be applied is \$3,000 for one dependent or \$6,000 for two or more. For married couples, both spouses must at least earn the amount of expenses you are claiming. Therefore, if one spouse is not working, no credit is generally allowed.

Form 2441 or Schedule 2 of Form 1040A must be completed to claim the credit. You cannot use Form 1040EZ. You must include on Form 2441 or Schedule 2 (Form 1040A) the name and taxpayer identification number (generally the Social security number) of each qualifying person. If correct information is not shown the credit may be reduced or disallowed.

Additionally, you must identify all persons or organizations that provide care for your child or dependent, including the name, address, and taxpayer identification number.

50. Does this credit include expenses for baby-sitters and day care?

Yes, these generally qualify as long as the services were provided while the taxpayer worked or looked for work.

51. Would child care payments made to a relative qualify as expenses for the child care credit?

Yes, unless the relative is someone the taxpayer claims as a dependent or if the relative is the taxpayer's child and is under the age 19.

52. What if the person that I pay to care for my dependent or spouse comes to my home? Could I be liable for employment taxes?

You could be considered a household employer who has to pay employment taxes. Usually, you are not a household employer if the person who cares for your dependent or spouse does so at his or her home or place of business.

NANNY TAX

53. What is the Schedule H for?

Taxpayers who employ household help including cooks, housekeepers, chauffeurs and caretakers are responsible for paying the employee's Social Security and Medicare taxes on their individual Form 1040 instead of filing a separate employment tax return. The taxpayer will have to file a Schedule H if one household employee was paid more than \$1,600 in 2008 or if the employer withheld federal income tax. The Schedule H is used to calculate these employment taxes based on the wages paid by the taxpayer to the employee. The taxes calculated on Schedule H will be included on the taxpayer's return in the "Other Taxes" section.

If you are a household employer, you will need an employer identification number (EIN). If you do not have an EIN, you can complete Form SS-4, Application for Employer Identification Number, to obtain one. You should not use a social security number in place of an EIN.

If the individuals who work in your home are self-employed, you are not liable for employment taxes. Self-employed persons who are in business for themselves are not household employees.

54. How will employers of domestic workers pay the employment taxes?

In 1995, household employers began to report and pay the employment taxes annually on their own Form 1040 federal tax returns and attach Schedule H for employees that received wages of \$1,600 or more.

However, for state purposes, you may need to file a separate form.

55. What can a household employee do if employment taxes have been withheld and their related wages will not exceed \$1,600 for 2008?

The employee should request reimbursement from their employers for any FICA taxes withheld from their pay. However, employees who are unable to obtain refunds of such taxes from their employers can obtain them by filing the Form 843 and attaching a copy of their Form W-2.

56. What about state employment taxes?

If you employed a household employee in 2008, you probably have to pay contributions to your state unemployment fund for 2008. To find out if you do, you should contact your state unemployment tax agency. You should also find out if you need to pay or collect other state employment taxes or carry workers' compensation insurance.

KIDDIE TAX

57. Tell us about the Kiddie Tax.

The kiddie tax is Congress' way of closing a tax loophole that allowed parents to pay less tax by shifting investment income to their children. The result is that many children must now file tax returns and pay taxes. If a child's interest, dividends, and other investment income total more than \$1,800, part of that income may be taxed at the parent's tax rate instead of the child's tax rate.

If the parent does not or cannot choose to include the child's income on the parent's return, use Form 8615 to figure the child's tax. The parent of a child under the age 18 or the age 24 if a full-time student, and whose earned income does not exceed half of his or her own support may elect to include the interest and dividend income of the child in excess of \$1,800 in his or her gross income for the tax year 2008.

58. Are there any special forms needed in filing the Kiddie Tax?

- Yes, if the Kiddie Tax applies, Form 8615 needs to be filed unless the child's parent elects to include the child's unearned income on the parent's return.
- The parent may elect on Form 8814 to include the child's unearned income on the parent's return, if certain requirements are met. One of the requirements is that the child's investment income must total less than \$9,000.

59. How do you handle the Kiddie Tax if the child's parents file separate returns?

The child must use the income of the parent with the higher taxable income, or in the case of parents who are not married, the child must use the income of the custodial parent.

CARE FOR ELDERLY

60. Another major social issue facing our country is caring for the elderly. What type of tax rules can people use for taking care of aging parents?

- First, an exemption for an elderly dependent is allowed if over half of the dependent's support is furnished by the taxpayer and certain other tests are met.
- The taxpayer is also entitled to an itemized deduction for medical expenses paid for an elderly dependent to the extent such expenses, when combined with the other medical expenses on the taxpayer's return, exceed 7.5% of the taxpayer's adjusted gross income.
- The taxpayer may also be allowed a credit for dependent care similar to the child care credit if the taxpayer incurs costs in caring for that person and the care allows the taxpayer to be gainfully employed.
- Further, for those ages 65 or older, an additional standard deduction is available (if they are not claimed as a dependent on another return)
- Also, a 15% tax credit, subject to certain limitations, is available for those who are 65 years or older. Married taxpayers generally must file a joint return to claim the credit. The credit is computed on Schedule R of Form 1040.

61. Can a husband continue to claim an exemption for a dependent in-law after his wife dies?

Yes. Relationships created by marriage are not terminated for purposes of the dependency exemption by divorce or death of spouse.

EDUCATION CREDITS AND DEDUCTIONS

62. What kinds of credits and/or deductions are available for taxpayers that have educational expenses or student loans?

- There is the Hope Credit, which is a non-refundable credit of up to \$1,800 per student for each of the first two years of post-secondary education.
- The Life Time Learning Credit allows a credit up to 20% of qualified tuition expenses paid by the taxpayer for any year that the Hope Credit is not available. The maximum credit amount is \$2,000. The Life Time Learning Credit is calculated per taxpayer and does not vary based on the number of students in the taxpayer's family.
- The AGI Limitation for both credits is phased out between \$48,000 and \$58,000 for single taxpayers. For taxpayers filing married filing jointly, the phase out is between \$96,000 and \$116,000.
- There is also a Student Loan Interest Deduction available. This is for indebtedness that is incurred solely to pay for qualified higher education. The maximum deduction amount is \$2,500 for the year 2008.
- The AGI Limitation for the Student Loan Interest Deduction phases out between \$55,000 to \$70,000 for most taxpayers and \$115,000 to \$145,000 for married filing joint taxpayers. You are not eligible for the deduction if you file married filing a separate return.
- There is an "above the line" deduction for tuition and related expenses paid for enrollment by the taxpayer, the taxpayer's spouse, and/or dependent at any accredited post-secondary institution. This deduction is limited to \$4,000 for 2008. It is generally available to taxpayers with AGI below \$65,000 for single filers and \$130,000 for married filing joint filers. For taxpayers with an AGI above \$65,000 but less than or equal to \$80,000 (above \$130,000 and less than \$160,000 for joint filers), the maximum deductible amount is \$2,000. No deduction is available to taxpayers with AGI above \$80,000 (\$160,000 for joint filers). This deduction must coordinate with the educational credits.

TAXABLE INCOME

63. Besides salary and profits from investments, there are a lot of other things that can be taxed. For example: Are disability benefits taxable?

- There are several types of disability benefits and their taxability varies depending on the type. For example:
- Workers' compensation is not taxable if paid under a Workers' Compensation Act or a similar law and if paid due to a work related sickness or injury.
- Federal Employees Compensation Act payments are not taxable.
- Compensatory damages are not taxable if received for injury or sickness. The injury must be a physical injury or a physical sickness, not emotional (unless attributable to physical injury/illness). However, damages received for emotional distress in satisfaction of such claim are also not excludable except to the extent paid for medical care attributable to emotional distress.
- Compensation for loss of a part of your body, loss of use of a function of your body or permanent disfigurement is not taxable if paid due to the injury. The payments must be figured without regard to any period of absence from work.
- Reimbursements for medical care are not taxable but the reimbursements may reduce your medical expense deduction.
- Generally amounts for punitive damages are taxable.

64. Are scholarships taxable?

Only a candidate for a degree can exclude amounts received as a qualified scholarship. These amounts include tuition and fees to enroll at or attend a qualified educational organization plus books, supplies and equipment required for courses at such an educational institution. Note that amounts for room and board do not qualify, nor do any payments for services such as for teaching a course qualify to be excluded from income. Remember that Veterans Administration payments for education are not taxable nor are prizes which must be used for educational purposes. Teachers and university employees may be interested to know that qualified tuition reductions furnished to employees of an educational institution are also excluded from income provided work is being pursued below the graduate level.

65. Gambling, gambling, gambling. If I win, it's like found money, surely gambling winnings aren't taxable.

- Unless you are a professional gambler, gambling winnings should be reported as other income on line 21. The tax withheld is reported on line 62 of Form 1040. If you itemize, gambling losses can be deducted as other miscellaneous deductions on Schedule A of Form 1040, but only to the extent of winnings. There is no such thing as a "Net" gambling loss. If you have significant gambling winnings or losses, it would be a very good idea to have records which support where your numbers came from.

- Professional gamblers can report the results of their activity on Schedule C, which is attached to their 1040. Schedule C, designed for income from a trade or business, allows for various categories of income and expense. The Supreme Court has defined a professional gambler as one who is involved in gambling on a regular and continuous basis.

66. If a Louisiana resident goes to Mississippi, gambles and wins money at one of the casinos there, is he required to file a Mississippi state income tax return?

- No, Mississippi no longer requires a nonresident return to be filed solely for gambling winnings. Mississippi withholds a fee which is not refundable. Louisiana allows a credit for these amounts withheld as long as you attach a copy of the withholding statements from the Mississippi casinos to your Louisiana return.

67. How does the IRS or anybody in Jackson or Baton Rouge find out that I've won anything? And what is this rumor that I can't get all the money I've won? Who determines how much has to be held back in case I don't pay tax for 2008?

- Any legitimate gambling institution must report winnings over certain amounts and withhold income tax if winnings are greater than certain amounts. Bingo or slot machine winnings of more than \$1,200 must be reported. Keno winnings of more than \$1,500 must be reported. For horse racing, dog racing, Jai Alai or other wagers, winnings of more than \$5,000 must be reported.

- For 2008, income tax is withheld at the rate of 25% on any gambling winnings of \$5,000 or more from any sweepstakes, wagering pool, lottery or any other wager where the proceeds are at least 300 times the amount bet. It does not matter whether proceeds are in cash, property or annuity form. Proceeds that are not in money are considered at fair market value. Remember also that, although gambling winnings from Bingo, Keno and slot machines are not subject to

withholding, you may need to make estimated tax payments to avoid underpayment penalties.

- Payers of gambling winnings should give you a Form W2-G, which is similar to a 1099 you might get for interest or the W-2 you get for wages. As we said earlier, the amount you have to report from the W2-G goes on line 21 of your 1040 as Miscellaneous Income unless you are a Professional Gambler who makes a living out of gambling.

68. Is alimony taxable as income to the recipient?

- Alimony is a payment to or for a spouse or former spouse under a divorce or separation instrument. It does not include voluntary payments that are not required by the divorce or separation instrument. Generally, alimony is deductible by the payer and must be included in the spouse's or former spouse's income. There are some additional conditions affecting alimony payments made under divorce or separation agreements made or renegotiated after 1983 which you may want to check, but generally child support, property settlements, and voluntary payments not required by the written document governing the divorce/separation are not deductible by the payor or taxable to the receiver.

69. Are Social Security benefits taxable?

- Some of a taxpayer's Social Security benefits may be taxable depending upon whether the recipient has other sources of taxable income and the total income which includes half of their benefits exceed a base amount. For single taxpayers with less than \$25,000 in income and for married taxpayers (filing jointly) with less than \$32,000 in income, all Social Security Benefits are free from tax. For taxpayers with incomes over these amounts, a portion of Social Security Benefits can be taxable. There is a table in your tax booklets which may help with the computation. For single taxpayers with income between \$25,000 and \$34,000 or married taxpayers between \$32,000 and \$44,000, you can be taxed on the lesser of one-half of your Social Security Benefits or one-half of the amount of the excess of income (including tax-exempt interest and one-half of Social Security Benefits) over a base amount.

- For single taxpayers with income that exceeds \$34,000 and married taxpayers in excess of \$44,000, the amount you will have to include in income is 85% of your social security benefits.

70. Are fringe benefits taxable?

- The value of fringe benefits you receive from your employer is taxable and must be included in your income as compensation unless the benefits are specifically excluded by law or you reimburse the employer for them. Some benefits you must report are personal use of any employer provided car or airplane. Your employer can choose not to withhold income tax on these items, but must inform you of his choice. Generally the amount of these benefits you must include as income will be shown on your W-2. In addition, the value of employer provided vanpools, transit passes or parking can be excluded from income if the value does not exceed certain dollar limits. As a general rule, however, if you don't see it on your W-2 or get a 1099 for it, a fringe benefit will not have to be reported.

71. Is unemployment compensation taxable?

- All unemployment compensation you receive is taxable. You should receive a Form 1099-G telling you the amount you have to report. Unemployment compensation includes benefits paid by the State or Federal government, unemployment insurance benefits, railroad unemployment benefits and other items. Remember that any benefits you have to repay can be deducted from those received in the year in which you make repayment.

72. Are state income tax refunds taxable?

A state income tax refund is taxable only if you deducted those state income taxes on your tax return for the year to which the refund relates and you received a tax benefit from the deduction. If you did not itemize your deductions on Schedule A or if you received no tax benefit from the deduction, then the state income tax refund would not be included in your income.

TAXES ON INVESTMENTS

73. Okay. Let's move on to a new subject. Let's talk about investments. Uncle Sam is very interested in taxing the profits people make from investments. Let's talk about these tax opportunities. First, please define exactly what a capital gain is.

A capital gain is a profit you realize when you sell a capital asset. Generally, everything you own and use for personal purposes, pleasure, or investment is a capital asset.

74. How are capital gains taxed?

There are several different rates that depend on the holding period and the taxpayer's marginal rate. For 2008, gains from the sale of long-term capital assets are taxed at 15%. However, for taxpayers in the 10% or 15% tax bracket, the tax rate for long-term capital gains is 0%. This 0% rate applies to married couples filing jointly with taxable income up to \$65,100, to single individuals with taxable income up to \$32,550, and to heads of households with taxable income up to \$43,650.

Assets held greater than 12 months are considered long-term. Assets held less than 12 months are considered short-term.

The maximum tax rate of 28% for gains on the sales of collectibles still applies for 2008.

75. You also have tax relief if you lose money on an investment, right?

Like capital gains, a capital loss occurs when you lose money from selling an investment. Yes. You can write off a portion of your losses, but like capital gains taxes, the amount depends on the investment.

76. Let's talk about a specific example. What if I sold a piece of land that I purchased for an investment, and I took a loss. Can I deduct the loss on my tax return?

- Yes, the taxpayer must first net the capital loss with other capital gains and losses to determine the amount of net capital loss available.

- Taxpayer's can utilize a net capital loss deduction to offset up to \$3,000 a year of ordinary income.

- Any excess net capital loss not currently deductible in this tax year may be carried forward indefinitely to future years.

- If married and filing separately, you are limited to a \$1,500 capital loss deduction to offset ordinary income.

77. What if I sold some property to my brother and took a loss on the sale? I was told that I cannot take the loss. Is this true?

- Yes. Losses realized from related party transactions are not deductible.

- A related party, in general, is family, people, or companies you can control.

- Any future gain on sale in an arms length transaction is recognized only to the extent it exceeds a disallowed loss.

78. What if I sold some stock I received from my father as a gift. How do I determine any profit on the sale?

- Generally it is the same as if you bought the investment. Your basis will be the same as your father's basis.

- If gift tax is paid on the transfer, your basis is increased by the amount of the gift tax attributable to the net appreciation in value of the gift.

- To determine loss, basis is lower of the transferor's basis or Fair Market Value (FMV) at time of gift.

- No gain or loss is recognized where the selling price is less than the basis for "gain" purposes and more than basis for "loss" purposes.

- Holding period includes the transferor's holding period.

79. What about stock I acquired in the Company where I have a twenty year tenure as an employee? Now I am ready to sell some of the stock. How do I determine my basis in the stock I sell?

- The specific identification method is best if you can identify specific shares of stock sold and you maintained accurate records. The Wall Street Journal online is an excellent resource to determine prices on a given day.

- The first-in, first-out method is used if you can't accurately identify shares sold.

However, this method may result in a disadvantage due to the fact that shares held the longest may have appreciated the most and result in the largest gain.

- A taxpayer may not use the average price per share to figure a gain or loss on a sale of the shares except for mutual fund shares.

80. What if I sold some stock at the end of December, but did not receive my cash until January of this year. I don't have to recognize the sale until I do my tax return next year, right?

- If traded on established securities market, you must recognize the gain or loss on the trade date rather than settlement date.

- Installment sale rules do not apply to sales of stock.

81. What if I bought stock in a company several years ago and the Company goes bankrupt in 2008. Can I take a deduction for my loss?

- A loss from worthless securities is deductible in the year the security becomes worthless.

- Usually the loss is a capital loss.

- Remember that the net capital loss deduction is limited to \$3,000 a year with an indefinite carryover.

82. Investments include things besides real estate and stocks. What if I sold some jewelry last year. Will I have to pay tax on the cash I received?

- This is treated as a capital asset

- Any gain (proceeds over basis) is treated as a capital gain.

IRAs

83. Let's talk about IRAs – Individual Retirement Accounts. Can you contribute to or deduct a contribution to an IRA in 2008?

Yes. You or your spouse can contribute to a traditional IRA if you had taxable compensation during the year and if you have not reached age 70 1/2. Taxable compensation includes alimony. The amount you can contribute is the lesser of your compensation or \$5,000 per year. If a married couple files a joint return, each spouse may, in a great majority of cases, make deductible contributions to each IRA of up to \$5,000 or the dollar limitation of compensation even if only one spouse has earned income. In other words, if one spouse has little or no compensation, that spouse may “borrow” his or her spouse’s compensation for purposes of enabling the maximum contribution. Also, an individual is not considered an active participant in an employer sponsored plan merely because the spouse is treated as an active participant.

An individual who will be at least age 50 by the end of the tax year is allowed to make additional contributions to a traditional or Roth IRA. For 2008, the maximum catch-up contribution is \$1,000.

84. How do you know if you are an active participant in your company's retirement plan?

- Ask. Generally, qualified plans are required to notify you of your eligibility as soon as it occurs and give you a report of your status annually if you become a participant. Even if you decline to participate in a plan you still could be considered an active participant.

- Your Form W-2 should indicate whether you are included in a retirement plan.

85. Be more specific about how your income level and whether or not you are covered by another plan affect what you can contribute to an IRA.

If you or your spouse are not covered by a retirement plan at work, you can take the full IRA deduction. For those married filing jointly, if both spouses are covered at work, income above \$85,000 will cause the allowable deduction to be reduced according to a percentage decreasing from 100% at \$85,000 to zero at \$105,000.

For single or head of household filers covered by a plan at work, full IRA deductions are allowable where income is \$53,000 or less, but begin decreasing from 100% at \$53,000 to zero at \$63,000.

If one spouse is not an active participant in an employer sponsored plan, that individual may take the maximum deductible IRA contribution. The deduction will be phased out at a combined AGI between \$159,000 and \$169,000.

86. Should you open an IRA if you can't deduct anything?

- This is a good question for your own tax advisor. Sometimes it is necessary to set up a place to receive a distribution from a qualified plan so that you are able to avoid taking it into income. As you know, any income an IRA earns is not taxable until it is distributed; but as you also know, any money that has not already been taxed will become taxable when you receive it.

87. When can you take IRA funds out and how much do you get every year?

Generally, you can begin taking money out of your IRA at age 59 1/2 without any penalty, but you must start taking money out by April 1 following the calendar year in which you reach age 70 1/2. You can take as much out as you want as long as you are willing to pay tax on the amount you take out. There are tables which have been prepared by the IRS which give you a percentage of your balance which you must take into income beginning at age 70 1/2 in order to avoid penalty.

88. Assume that a husband incurs major medical expenses due to his illness. If you are under the age 59 1/2, are there any situations which would allow you to get money out of a pension plan or IRA and avoid the 10% penalty?

Providing the pension plan or IRA has provisions for "Hardship" withdrawals, the incurrence of high medical bills may allow for distributions to be received without the 10% penalty. However, this exception does not apply to premature distributions from an IRA unless the payments are part of an annuity. Don't forget that this amount will still be taxable.

89. Let's say I want to move my money from one IRA to another. Can I do this?

If you withdraw all or a portion of your money directly yourself, the trustee is required to withhold 20% and you have 60 days to roll the funds to another IRA or put them back into the same IRA in order for it to qualify as tax-free. You must also replace the 20% withheld or that portion will be considered a distribution and

subject to the distribution rules. You must also wait at least one year from the date you receive the funds to be eligible for another tax-free rollover.

A “Trustee to Trustee” transfer is a transfer of your IRA directly from Bank A to Bank B where Bank A sends your money directly to Bank B, and you never have your hands on the money. This is not considered a rollover and therefore the one-year limitation does not apply.

90. What is the deadline for making IRA contributions?

The money has to be in your IRA by April 15. Remember, it's just like taxes. You have to pay all the tax you owe by April 15 to avoid penalty even if you get an extension to file your return.

91. Can I use part of my tax refund as an IRA contribution?

Yes. You can choose to have part of your federal income tax refund directly deposited into your IRA. The IRA must be established before the request for the direct deposit is made. You should inform your IRA trustee which year the direct deposit contribution is for. You must also verify that the direct deposit is made to your IRA by the due date of your return, without regard to extensions.

92. Can self-employed people have IRAs?

Self employed individuals can set up plans known as Keogh plans or another type of plan known as a SEP or Simplified Employee Pension Plan available to small employers in which Individual Retirement Accounts are set up for each participant. This type of plan tends to relieve the sponsor of the burden of Trust Administration. For years beginning after December 31, 1996 Salary Reduction SEP (SARSEP) have been replaced by SIMPLE retirement plans.

93. What if I inherit an IRA from my deceased spouse?

A surviving spouse may elect to treat an inherited traditional IRA as his or her own. One way to make the election is to have the account re-designated as an account belonging to the surviving spouse as owner, rather than beneficiary.

In order to make this election, the surviving spouse must be the sole beneficiary of the IRA and have an unlimited right to withdraw amounts from it.

94. What if I inherit an IRA from someone who is not my spouse?

If you inherit a traditional IRA from anyone other than your deceased spouse, you cannot treat the inherited IRA as your own. This means that you cannot make any contributions to the IRA. It also means you cannot roll over any amounts into or out of the inherited IRA. However, you can make a trustee-to-trustee transfer as long as the IRA into which amounts are being moved is set up and maintained in the name of the deceased IRA owner for the benefit of you as beneficiary.

Like the original owner, you generally will not owe tax on the assets in the IRA until you receive distributions from it. You must begin receiving distributions from the IRA under the rules for distributions that apply to beneficiaries.

ROTH IRAs

95. What is a Roth IRA and what makes it different, especially from a tax perspective?

A Roth IRA is a means to save for your retirement. Contributions are not tax deductible, and withdrawals are generally tax-free. Therefore, contributions made early in a person's working life will receive the greatest benefit because investment earnings of the Roth IRA are generally tax free when distributed.

96. Who can contribute and when?

Anybody with taxable compensation can contribute to a Roth IRA, regardless of age. Just like traditional IRA's, a contribution can be made any time during the tax year or by the due date of the return for that year. This does not include extensions.

97. Are there any limitations to contributions?

The amount that can be contributed to a Roth IRA is limited. The total contributions to Roth and Traditional IRA's combined is \$5,000. If you contribute toward both, contributions are considered to go toward the Traditional IRA first.

Additionally, just like with Traditional IRA's, the amount that can be contributed without penalty begins to reduce at certain income limits. For married couples filing a joint return, that amount is \$159,000-\$169,000. For single, head of household, or married filing separately and not living together filers, the amount is \$101,000-\$116,000. For married couples filing separate and living together, the amount is \$0-\$10,000.

98. Can I roll-over the amounts I have in a traditional or SIMPLE IRA into a Roth IRA?

You can convert a traditional IRA if your modified AGI is not more than \$100,000 and you are not a married individual filing a separate return. Generally, amounts transferred or converted from a traditional IRA into a Roth IRA must be included in gross income, but are not considered when determining the \$100,000 AGI limit. The election to spread the tax evenly over 4 years is no longer available.

For tax years beginning after 2009, the adjusted gross income limit is scheduled to be eliminated, allowing higher income taxpayers to convert traditional IRAs to Roth accounts.

A SIMPLE IRA can also be converted to a Roth IRA under the same rules as a traditional IRA. However, you cannot convert any amount distributed from the SIMPLE IRA during the 2-year period beginning on the date you first participated in any SIMPLE IRA plan maintained by your employer. Therefore, if you have been participating in a SIMPLE IRA for less than 2 years, you cannot make the conversion.

Additionally, you can choose to change a Roth Conversion IRA back into a regular IRA and once again convert the regular IRA back into a Roth IRA. Generally, you can only do this once in a calendar year.

99. Are distributions always tax-free?

Qualified distributions or distributions that are a return of your regular contributions are not included in gross income. Generally, a qualified distribution is a payment or distribution from your Roth IRA:

1. made on or after the date you reach age 59 1/2
2. made because you are disabled,
3. made to a beneficiary or your estate after your death, or
4. made to pay certain qualified first-time homebuyer amounts (see Publication 590 for more information).

Distributions that are not qualified distributions are any distributions made within the 5-tax- year period beginning with the first tax year for which a contribution was made to a Roth IRA set up for your benefit. Even if the distribution is one of the ones described earlier, it still must satisfy the 5 year rule. Additionally, withdrawals of excess distributions are not qualified.

For the appropriate tax treatment of non-qualified distributions, it is best to refer to Publication 590.

COVERDELL EDUCATION SAVINGS ACCOUNTS

100. What are Coverdell Education Savings Accounts (formerly called Educational IRA's)?

A Coverdell Education Savings Account is not a true IRA. Instead of investing for retirement, this is a tool created for the purpose of paying the qualified higher education expenses of the beneficiary of the account. Contributions to a Coverdell ESA must be made in cash and are not deductible. Withdrawals from this account are tax free to the extent that they do not exceed the beneficiaries' qualified higher education expenses during the year. The exclusion is not available for any year in which the HOPE or Lifetime Learning Credit is claimed. Qualified higher education expenses include: tuition, fees, books, supplies, equipment, also room and board if the beneficiary is enrolled at least half-time and is enrolled in a program leading to a recognized educational credential at an eligible educational institution.

The maximum total contribution per beneficiary is \$2,000 from all sources other than rollovers, and as with other IRA's, contribution amounts become limited as modified adjusted gross income increases. When modified AGI is \$110,000 for individuals filing as single or \$220,000 for those who are married filing jointly, the ability to establish & contribute is completely phased out.

If the initial beneficiary no longer needs the benefit of the Educational IRA, it is possible to change the designated beneficiary by rolling over the account. This is a tax free event providing the new beneficiary is a member of the family of the previous beneficiary and is under 30 at the time of the change. If this is not the case, please consult your tax advisor and/or Publication 970.

HOMEOWNERS

101. Let's now talk about tax breaks for homeowners. Is owning a home still one of the best tax strategies for the average taxpayer?

- Yes, home mortgage interest, origination points, and real estate taxes provide an excellent tax-saving strategy.

- However, certain high income taxpayers may be subject to a limit on itemized deductions.

- Some borrowers may be able to deduct mortgage insurance premiums paid on mortgages taken out or refinanced after December 31, 2006 and before December 31, 2010. Proceeds of the mortgage, secured by a first or second home, must be used exclusively to buy, build, or improve these homes, or alternatively, to refinance a mortgage, secured by the home and used for these purposes. Home-equity loans used for other purposes are not eligible. The deduction for mortgage insurance premiums is phased out for taxpayers with adjusted gross incomes exceeding \$109,000 (\$54,500 if married filing separately). This deduction is claimed on Schedule A, Line 13.

102. Are there limits on deducting home mortgage interest?

- The aggregate amount of acquisition indebtedness may not exceed \$1,000,000 and the aggregate amount of home equity indebtedness may not exceed \$100,000. These amounts are halved for a married individual filing a separate return.

- Thus, any home mortgage interest on debt exceeding the above ceilings is not deductible as mortgage interest.

103. What is home mortgage interest?

A home mortgage is any loan that is secured by your main home or second home. It includes first and second mortgages, home equity loans, and refinanced mortgages.

A home can be a house, condominium, cooperative, mobile home, boat, or similar property. It must provide basic living accommodations including sleeping space, toilet, and cooking facilities.

The residence must be secured by a mortgage.

104. Do points paid when your house is refinanced qualify as home mortgage interest?

Points paid to refinance a home mortgage are not deductible in full in the year paid but must be deducted ratably over the period of the loan because such points are for repaying the taxpayers existing indebtedness and are not paid in connection with the purchase or improvement of the home.

105. What is home equity indebtedness?

- It is all debt (other than debt incurred to acquire, construct or improve a residence) that is secured by a qualified residence to the extent that it doesn't exceed \$100,000 or the fair market value of the residence reduced by acquisition indebtedness.

- Interest on such debt is deductible even if the proceeds are used for personal expenditures.

106. If you sell your home for a loss is that deductible?

- A loss incurred on the sale of a personal residence is not deductible

107. I understand that there are some tax advantages for individuals who sell their homes. Could you tell us about these?

- There may be an exclusion of the gain on the sale of up to \$250,000 (\$500,000 for married filing jointly taxpayers) if certain requirements are met. The exclusion may not be used more frequently than once every two years.

- The taxpayer must have owned and used the home as his principal residence for 2 years out of the 5 year period ending on the date of sale.

108. Is a gain from the sale of your principal residence that is allocable to periods of nonqualified use excluded from the taxpayer's income?

No. A gain from the sale of a principal residence that is allocable to periods of nonqualified use is not excluded from the taxpayer's income, as added by the Housing Assistance Act of 2008.

109. What is considered a nonqualified use period?

A period of nonqualified use is any period (other than any period before January 1, 2009) during which the property is not used as the principal residence of the taxpayer, the taxpayer's spouse or the taxpayer's former spouse.

110. How is the gain allocated? Are there any exceptions to the gain?

The gain is allocated to periods of nonqualified use based on the ratio of aggregate periods of nonqualified use during the period the property was owned by the taxpayer over the total period of time the property was owned by the taxpayer.

There are several exceptions to the general definition of period of nonqualified use. A period of nonqualified use does not include:

- (1) any portion of the five-year period ending on the date the property is sold that is after the last date that the property is used as the principal residence of the taxpayer or the taxpayer's spouse;
- (2) any period (not exceeding the aggregate period of 10 years) during which the taxpayer or the taxpayer's spouse is serving on qualified official extended duty as a member of the armed forces, as a Foreign service officer, or as an employee of the intelligence community; and
- (3) any other period of temporary absence from the taxpayer's principal residence (that do not exceed two years in total) because of a change of employment, health conditions or other unforeseen circumstances.

111. A lot of houses are on the market. People are often painting and fixing up houses to sell. Can they deduct these costs?

Additions and other improvements that have a useful life of more than 1 year, special assessments for local improvements, and amounts you spent after a casualty to restore damaged property are added to your cost, and deducted upon the sale of the home.

Painting and general sprucing up expenses must be incurred for work performed during the 90 day period ending on the day on which the contract to sell is entered into; be paid on or before the 30th day after the date of sale of the old residence, not be a capital expenditure which increases the price of your home, and not be otherwise deductible.

112. What about selling a double. Let's say I lived on one side and rent the other half. When I sell it, can I defer taxes on profits from the house?

- Yes, you may defer the gain recognition on the side on which you live in; however, the gain relating to the side you rent would be currently recognized and taxes must be paid.

113. How do you report the sale of your home?

Do not report the sale of your main home on your tax return unless you have a gain and you do not qualify to exclude all of it, or you have a gain and choose not to exclude it.

If you have any taxable gain on the sale of your main home that cannot be excluded, report the entire gain realized on Schedule D, Capital Gains and Losses.

RENTAL PROPERTY

114. Let's talk about rental property. What are some general tax rules regarding rental income?

- Each rental property must be accounted for separately.
- You can deduct interest payments, property taxes, building depreciation, and furniture and fixtures depreciation.
- You can deduct that portion of your operating expenses such as utilities, insurance, repairs and maintenance that are related to the production of rental income.
- If your rental property ends up with a loss for the year, your deduction may be limited, due to passive activity loss rules.

The passive activity loss rules do not apply to "real estate professionals who materially participate," and there are special rules to qualify as such.

115. What is the tax treatment for a double if only one side is rented and the other side is used as your personal residence?

- The side that is rented follows the same general tax rules for 100% rented property.
- The other side that is used for your personal residence forces interest, property taxes, etc. attributable to this side (e.g. 50%), to be deducted as itemized deductions since these are considered your personal expenses.

116. What about people who own vacation homes? What if they are not rented but a few days a year?

- If it is a vacation home with minimum rental use (generally less than 15 days), then rental income and expenses are ignored.
- In general, deductions allowed for vacation homes are the same as for a personal residence, with some exceptions.

117. What if a vacation home is rented often?

- A vacation home becomes rental property when:
 - It is not used for personal reasons for more than 14 days during the year; or
 - It is not used for personal reasons for more than 10% of the number of days the house is rented at fair market value, whichever is greater.
- In this case there are special rules that apply to determine deductibility of expenses.

HOME OFFICE DEDUCTIONS

118. Now, let's move on to a new subject. Home office deductions. What are some of the tax benefits of having a business in your home?

- Being able to take deductions for the business use of your home or part of your home. The IRS has relaxed the home office deduction rules in expanding the definition of "principal place of business."

119. What must one do to claim those deductions?

Taxpayers are not entitled to deduct any expenses for using their homes for business purposes unless the expenses are attributable to a portion of the home (or separate structure) used exclusively on a regular basis:

- 1) as the principal place of any business carried on by the taxpayer;
- 2) as a place of business that is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of business; or
- 3) in connection with the taxpayer's business if the taxpayer is using a separate structure that is appurtenant to, but not attached to, the home.

- Tax Years Beginning After 1998

The phrase "principal place of business" includes a place of business that is used by the taxpayer for the administrative or management activities of any trade or business of the taxpayer if there is no other fixed location of such trade or business where the taxpayer conducts substantial administrative or management activities of the trade or business (Code Sec. 280A(c)(1)).

Taxpayers who perform administrative or management activities for their trade or business at places other than the home office are not automatically prohibited from taking the deduction based on failure to meet the principal place of business requirement. According to the House Committee Report to P.L. 105-34, the following taxpayers are not prevented from taking a home office deduction under the new definition:

- (1) taxpayers who do not conduct substantial administrative or management activities at a fixed location other than the home office, even if administrative or

management activities (e.g., billing activities) are performed by other people at other locations;

(2) taxpayers who carry out administrative and management activities at sites that are not fixed locations of the business (e.g., cars or hotel rooms) in addition to performing the activities at the home office;

(3) taxpayers who conduct an insubstantial amount of administrative and management activities at a fixed location other than the home office (e.g., occasionally doing minimal paperwork at another fixed location); and

(4) taxpayers who conduct substantial non-administrative and non-management business activities at a fixed location other than the home (e.g., meeting with, or providing services to customers, clients or patients at a fixed location other than the home office).

- If you pass these tests, then you are able to take a portion of the deductions that are otherwise personal, relating to your home, such as, your utilities, your home maintenance expenses, insurance expenses, and depreciation.

120. What steps should the individual take to ensure these home office deductions are deductible?

- The documents and evidence must positively demonstrate that the home office is space used exclusively and regularly as the principle place of business.

OTHER BUSINESS DEDUCTIONS

121. Let's talk about some other business deductions. Can unreimbursed employee business expenses be deducted on your tax return?

- Unreimbursed employee business expenses can only be deducted as miscellaneous itemized deductions, which we'll talk more about later. You need to know that unreimbursed employee business expenses, along with your other miscellaneous deductions, must exceed 2% of your AGI in order to receive a benefit.

- The 50% limit on meal & entertainment expenses must be taken into account prior to the application of the 2% floor.

122. What if the IRS comes for an audit? How do you prove your business expenses to the IRS?

- Generally, you need to provide documentation evidence that can be corroborated by a third party, like a credit card paid slip, canceled checks or if you pay cash be sure to get a receipt.

- The IRS likes to see contemporaneous expense logs or diaries. The diary should show the business purpose, when and where the expense was incurred and whom you paid.

- You should put the following information on the back of your credit card slip, canceled check or other receipt:

- Business purpose
- Business relationship
- Itemized accounting
- Time and place

123. What about recordkeeping for automobiles used for business?

- If you use your car for business reasons, records should indicate date, mileage, and reason for each business trip as well as odometer readings at the beginning and end of year.

- You will also need canceled checks and receipts to document the cost of the vehicle.

- You can maintain an exact record of expenses for repairs and maintenance, gasoline and oil, insurance, tires and other expenses,

or

- The standard mileage rate is available to both employees and self-employed persons. From Jan. 1, 2008 through June 30, 2008 the rate was 50.5 cents a mile, and from July 1, 2008 through Dec. 31, 2008 the rate was 58.5 cents a mile. You would multiply the rate times the number of business miles driven during each of the above time periods.

- Parking fees and tolls related to the business are also deductible.

124. What about keeping a travel log for business trips?

- A travel diary or log should be maintained and recorded near the time of incurrence of the expenses showing:

1. Date,
2. Amount,
3. Time and place,
4. Business purpose.

- Receipts or paid bills are required for lodging expenses and other expenses that exceed \$75.

125. How do you determine your deduction for the business use of your car?

- There are two methods to figure out your yearly deduction: the standard mileage rate or actual expenses. Parking fees, tolls and some other business related expenses should be added to both methods.

- In general, you can choose the method that gives you the greater deduction, but there are two exceptions:

1. You must use the actual expense method for leased cars or if you claimed accelerated depreciation in an earlier year.
2. Once you have decided to go with the actual expense method, you cannot switch to the standard mileage rate in later years.

- The standard mileage rate includes depreciation and maintenance costs.

- Actual expenses method - with this method you record and combine all the expenses related to your car use - gasoline and oil, repairs and maintenance, insurance, tires and other expenses and depreciation on the cost of the vehicle.

126. Because New Orleans is a big entertainment center, what are the rules now on entertainment expenses? For example, if you take a business colleague to lunch.

- Generally you can only deduct 50% of the total expenses for 2008.
- For expenses to be deductible, they must pass a couple of tests:
 - They must be “ordinary and necessary.” “Ordinary and necessary” means that the expenses you have incurred are appropriate and helpful to your business and that someone in the same line of work could reasonably be expected to incur a similar expense. The expense must be common and accepted in your industry.
 - The second test – “directly related to or associated with your business” can be a tougher test to pass. “Directly related” means you must expect some profit of return from your expense. Also, you need to show that you actively engaged in business at some point during the course of the meeting or event for which the expense was incurred. No deduction is allowed for food and beverage expenses that are lavish and extravagant under the circumstances.

127. What about recordkeeping for meals and entertainment?

- To support deductions for meals and entertainment, again you will need receipts for every expense over \$75. An expense diary or daily log should include the cost of the meal or entertainment, location, date, business discussed, and names and titles of people entertained.

128. Can the business side of a lunch be simply incidental to your socializing?

- It must be the main reason for your gathering.
- In some cases, the IRS presumes that business cannot be the primary motivation. Nightclubs, cocktail lounges, sporting events, etc. are all suspect areas for conducting business. Entertaining in non-business environments is not automatically disallowed; it simply places a greater burden of proof on you to show that business was conducted.

129. Can you deduct luncheon, social, athletic or club dues?

- Since 1995, no deduction may be claimed for club dues. However, dues paid to professional or public service organizations (e.g. accounting associations, or Kiwanis or Rotary clubs) are deductible if paid for business reasons, and the organization’s principal purpose is not to conduct entertainment activities for members or their guests.

130. My company provides me a company car. How will that be reported to the IRS?

- If you have the use of a company car as a fringe benefit, your employer is required to report the value of your personal use of the car as income on your W-2 form.
- Your employer also is required to withhold Social Security taxes on the amount.
- In reporting the value of the car on your W-2, your employer has two alternatives:
 1. It can report only the value of your personal use based on IRS “annual lease value” tables or standard lease rate or,
 2. It can report the total value of the car’s use. If the entire value of the car’s use is reported on your W-2, you can deduct the value of business use on your personal income tax return.

131. What if you are given a gift at Christmas from a business associate? Do you have to pick up a gift as income?

- No, provided the gift is not in lieu of payment for services rendered.
- Deductions for business gifts, whether made directly or indirectly, are limited to \$25 per recipient per year.

CHARITABLE CONTRIBUTIONS

132. What about charitable contributions? Are these still deductible?

Yes. There are some limits that would apply on larger donations. However, for the average taxpayer these are still deductible if you itemize.

133. What about expenses you have as a result of charity work? For example, if you were a volunteer for the Muscular Dystrophy Association, could you deduct travel expenses?

- Yes. For auto expenses, you can deduct 14 cents per mile or actual expenses. If the 14 cents per mile method is used you can also deduct parking fees and tolls.

- Out-of-pocket expenses are deductible.

134. What type of records should you keep to substantiate your charitable deduction?

- You should keep canceled checks, a receipt showing the name of the charity and the amount and date of your gift or other reliable records showing that information for any contribution you make.

- To deduct any charitable donation of money, you must have a bank record or a written communication from the recipient showing the name of the organization and the date and amount of the contribution. This new provision is designed to provide greater certainty, both to taxpayers and the government, in determining what may be deducted as a charitable contribution.

- If you claim a deduction of more than \$500 for donations of property in a year, you will also need to document when you bought the property, how much you paid for it and how you determined its value on the date you donated it.

- If you donate property worth more than \$5,000 (with the exception of publicly-traded securities), you must have a qualified appraisal report and an acknowledgment on Form 8283 from the charitable organization.

- To support expenses incurred as a volunteer for a charitable organization, you should keep a travel/transportation log as well as canceled checks or receipts for any out-of-pocket expenses directly related to your volunteer activities.

- Again, in tax years beginning after August 17, 2006, no deduction will be allowed for contributions of cash, checks, or other monetary gifts, regardless of the amount, unless the donor maintains either a bank record or a receipt, letter, or other written communication from the donee, indicating the donee's name and the contribution date and amount.

ITEMIZED DEDUCTIONS

135. Can medical expenses be deducted?

- Unreimbursed medical expenses can be deducted to the extent they exceed 7.5% of your adjusted gross income.
- Amounts paid for long-term care services and certain premiums will be considered medical expenses up to various dollar limits.
- Medical expenses include orthodontist, eyeglasses, contact lenses, eye surgery, transportation to medical facilities, prescription medicine, hearing aids, false teeth...even acupuncture and expenses paid to help the taxpayer quit smoking that must be done through a doctor. This includes therapy and prescription medicine.

136. Can the children of elderly take these medical deductions if they provide financial support?

- Person must be a dependent.
- Payments must be directly to hospital, doctor, etc.; not to the elderly parent.
- Must meet other deduction requirements.

137. What other deductions can you take? Tell us about miscellaneous itemized deductions.

- Miscellaneous Itemized Deductions subject to 2% of AGI limit include:
 - Certain uniforms and tools required on the job.
 - Salesmen's expenses. (But not a life insurance salesperson).
 - Dues to professional organizations.
 - Subscriptions to professional journals.
 - Job-hunting costs.
 - Tax preparer fees.
 - Expenses of producing income, or maintaining income-producing property, such as certain investment publications, safe deposit box rental, certain legal and accounting fees, and custodial fees.

ENERGY CREDITS

138. Many taxpayers have made energy saving improvements to their homes. Are any tax breaks available for these improvements?

The residential energy-efficient property credit is extended through 2016. In general, solar electric, solar water heating and fuel cell property qualify for this credit. Starting in 2008, small wind energy and geothermal heat pump property also qualify.

Use Form 5695 to claim the credit and attach it to your Form 1040. Enter the credit on Form 1040, line 53.

The non-business energy property credit for insulation, exterior windows, exterior doors, furnaces, water heaters and other energy-saving improvements to main home is not available in 2008 but will return in 2009

ALTERNATIVE MOTOR VEHICLE CREDIT

139. What if I purchased an alternative motor vehicle in 2008? Are any credits available?

You may be able to take a credit if you place an alternative motor vehicle in service during the year.

An alternative motor vehicle is a new vehicle that qualifies as one of the following four types of vehicles:

- A qualified hybrid vehicle
- An advanced lean burn technology vehicle
- A qualified alternative fuel vehicle
- A qualified fuel cell vehicle

For a passenger car or light duty truck that is either a qualified hybrid vehicle or an advanced lean burn technology vehicle, you can rely on the manufacturer's certification that a specific make, model, and model year vehicle qualifies for the credit and the maximum amount of the credit for which it qualifies. You must also have placed the vehicle in service after 2005, the original use of the vehicle must begin with you, you must acquire the vehicle for your use or to lease to others and not for resale, and you must use the vehicle primarily in the United States.

140. Is there a phaseout of this credit?

Ordinarily, the amount of the credit is 100% of the manufacturer's certification of the maximum credit allowable. However, if you purchased a qualified vehicle from a manufacturer who previously sold at least 60,000 qualified vehicles, the amount of your credit may be reduced. Your manufacturer should give you the information you need to figure your phaseout percentage.

141. How do I take this credit?

To take the credit, you must complete Form 8910 and attach it to your Form 1040. The credit should also be included on line 55 of your Form 1040.

OTHER TAX CREDITS

142. What is the child tax credit?

The child tax credit is a credit that may reduce your tax by as much as \$1,000 for each of your qualifying children.

The child tax credit begins to phase out when modified AGI reaches \$110,000 for married filing joint filers (\$55,000 for married taxpayers filing separately, and \$75,000 for single taxpayers).

143. Tell us about the mortgage interest credit.

The mortgage interest credit is intended to help lower-income individuals own a home. If you qualify, you can take the credit each year for part of the home mortgage interest you pay.

You may be eligible for the credit if you were issued a mortgage credit certificate from your state or local government. To figure your credit, use Form 8396.

144. Is a credit available for contributions for retirement savings?

You may be able to take a credit for retirement savings contributions if you, or your spouse if filing jointly, made contributions (other than rollover contributions) to a traditional or Roth IRA, elective deferrals to a 401(k) or 403(b) plan or to a governmental 457, SEP, or SIMPLE plan, voluntary employee contributions to a qualified retirement plan, or contributions to a 501(c)(18)D plan.

However, you cannot take the credit if either of the following applies:

- Your AGI is more than \$26,500 for single (\$39,750 if head of household; \$53,000 if married filing jointly).
- The person who made the qualified contribution or elective deferral (a) is younger than 18 years old at the end of the tax year, (b) is claimed as a dependent on someone else's tax return, or (c) was a full-time student.

REFUNDS

145. Many look forward to tax season because they hope for a big refund, but getting a large refund isn't always a good thing. How is that possible?

While it's great to have a big chunk of money given to you, if you regularly receive large refunds every year you may be having too much money withheld for taxes from your paycheck. And that's a bad idea, because you could be using that cash all year as part of your regular budget. If you think this may be the case, speak to your CPA or payroll administrator at your workplace about whether you need to adjust your withholding amount. The goal is to get back less in a refund, so you get to keep more of your money year round.

146. Let's consider the opposite of that. Say you do your tax return and end up having to pay Uncle Sam. What tips can you give to people in that situation to help lower their tax bill?

One big thing that everyone can do is to participate in their company's 401(k) plan or contribute to an individual retirement account. Doing this can allow you to lower your taxable income now and make the most of your long-term nest egg. I'd also suggest talking with your CPA. He or she may be able to help you reduce your tax bill by pointing out deductions or tax credits you may have missed. And in the last question, for the person getting too much back, we suggested adjusting your withholding amount; the person who has to pay may consider doing that too in order to lower their tax bill. And remember, owing the government too much may result in owing penalties for underpayment too.

147. Some of us who are expecting refunds will be anxiously waiting on the money to arrive, and of those, many may be a bit inclined to splurge and spend it right away. What advice would you give on how to be smarter about spending your tax refund?

It's a nice surprise to get back some of the money you paid in taxes during the year. It's also a great opportunity to make some sound financial decisions that will reap benefits now and in the future. So before you splurge all of your newfound funds, you should consider some more "money-wise" alternatives.

If you have high-interest credit cards, student loans or any other major debts, then you may use some if not all of your refund to pay them down as much as possible. For example, if you pay off a credit card with a 16% interest rate, you've just gotten yourself a 16% return on your money – and that's an added bonus that compares very well with most investments. If you don't lower your debts, you'll instead end up wasting money on interest charges.

Maybe you want to further your own education or send a child to college. Or maybe you plan to buy a home in the next year or two, or take a big family vacation sometime down the road. No matter what your plans, the best way to make them possible is to use your tax refund to open a savings account or deposit it into an existing account. That way you'll have the cash ready when you need it.

One lesson we learned from Katrina is that many of us weren't prepared for the financial impact it had on individuals and families – some people were out of work for months, or worse, they lost their jobs. It's a good idea to set aside all or a portion of your refund to start an emergency fund which is intended to cover unexpected emergencies, such as loss of a job, an injury or hospitalization or another unforeseen crisis like a hurricane. That's why it's a great idea to use your refund to get an emergency fund started.

And CPAs aren't sticks in the mud. We do believe people should enjoy their refund and splurge a little. If you don't have any high-interest debts and you do follow a regular savings plan and set aside money for retirement, then go ahead and splurge your refund. But, when you're deciding how to spend the money, you should consider indulgences that might be a good investment, such as updating your kitchen or bath or taking other steps that will improve your home's resale value. They are fun choices but they will also pay you dividends in the future.

148. Refunds aside, people do put a lot of work into collecting all the information they need to prepare their tax return. How can viewers make the most of tax season?

Although many people dread tax time, it does provide a great opportunity to get a perspective on your financial situation. Once you've done the hard work of gathering your financial records and receipts, all of that information provides a great snapshot of your financial situation. Are you making the right investments to meet your long-term goals? Are you getting the best mortgage rate? Now's the time to consider these financial questions using the information you've already put together to compile your tax return.

LOUISIANA TAXES

149. Are there any types of income treated differently for federal and Louisiana income tax purposes?

Several types of income are treated differently for federal and state tax purposes. Because the calculation of state taxable income begins by reference to federal income, federal income must be adjusted in order to calculate the income base subject to the state tax rates.

Income from municipal securities is generally exempt from federal income tax. Louisiana also allows the exemption provided that income is earned from securities issued by Louisiana or its political subdivisions. If the income is derived from out of state securities, it is included as part of Louisiana taxable income.

150. What types of income are specifically excluded from Louisiana taxable income?

Income earned from obligations of the U. S. Government (but not including certain U. S. Government agencies).

Amounts received during the year from the Louisiana Employees or Louisiana State Teachers' Retirement System and any amounts received currently from the Federal Retirement System. (Certain other Louisiana retirement benefits are also excluded if specifically mentioned in the law.)

The first \$6,000 of annual retirement income earned by those 65 or over is exempt from Louisiana Income Tax (including IRA distributions). Care should be taken not to exclude under this category income already excluded in the categories already mentioned.

All social security benefits taxable at the federal level are excluded from Louisiana Income Tax.

Because federal income tax is deductible from Louisiana income tax, the amount of federal income tax deemed attributable to the exclusion mentioned above must be calculated in order to reduce the other exclusions. A convenient table with a formula for calculating the adjustment is available in the instructions to the Louisiana individual income tax return.

151. Are there any Louisiana income tax developments that people should be aware of?

- Act 399 of the 2007 Regular Legislative Session reinstated the excess itemized deductions for the LA tax return. The deduction will be phased in over three years. For the 2008 tax return, the rate is 65%. The rate is 100% for all tax years after January 2009.

- The education credit that was restored last year entitles each taxpayer who is required to file a Louisiana tax return to claim a credit for educational expenses incurred for each qualifying dependent who attended Kindergarten, elementary, or secondary school (kindergarten through 12th grade) for at least part of the year. The maximum credit is \$25 per qualified dependent.

- The refundable personal income tax credit for the payment of Louisiana Citizens Property Insurance Corporation assessments attributable to Hurricanes Katrina and Rita remains for the 2008 tax return. Only assessments actually paid in 2008, whether directly or indirectly, are allowed as a credit on an individual taxpayers' 2008 personal income tax return. The credit is now claimed on Line 22 of the return. Moving the credit to the return eliminates the need to file and attach schedule F to the return.

- The maximum amount of the military pay exclusion for 2008 is \$30,000.

- Taxpayers are not required to file a federal child care credit to obtain a Louisiana refundable credit, but the same Federal rules must be followed with respect to paying child care.

- Any gratuitous grant, loan or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity shall be retroactively excluded if such income was included in the taxpayer's Federal Adjusted Gross Income. Hurricane recovery entities that provided such benefits are the Road Home Corporation, the Louisiana Recovery Authority, or the Louisiana Family Recovery Corps.

- There is a teacher deduction for 2008. This deduction provides for an exclusion of \$1,000 for an individual who was previously employed as a public school teacher by a school board in one of the following parishes impacted by Hurricane Katrina: Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany. To qualify for the exclusion, the teacher shall agree in writing to be employed as a public school classroom teacher for at least three years. The individual shall submit the agreement between the school board and the teacher to the Department of Revenue.

- Electronic filing of your return is again available statewide in Louisiana for 2008 returns.

- any taxpayers who owe Louisiana income tax and get an extension for filing their federal income tax return should pay whatever they owe Louisiana by the May 15th deadline. Otherwise, they could be subject to a late payment penalty of 0.5% a month up to a maximum of 25% if they send their payment after May 15th. This penalty has been on the books for several years, but the Department of Revenue only started enforcing it on an across-the-board basis a few years ago.

152. Who must file a Louisiana return?

If you are a Louisiana resident who is required to file a federal individual income tax return, you must file a Louisiana income tax return reporting all income earned during the year.

You must file a return to obtain a refund or credit if you overpaid your tax through withholding, estimated tax, a credit carried forward, or had composite partnership payments made on your behalf, or if you are claiming a 2008 refundable child care credit.

If you are not required to file a federal return but had Louisiana income tax withheld during the year, you must file a return to claim a refund of the amount withheld.

153. When is the Louisiana return due?

The Louisiana individual income tax return is due on or before May 15, 2009. If you need an extension, Louisiana will recognize an extension granted by the IRS if you attach a copy of Federal Form 4868 to your Louisiana return.

Remember, an extension lengthens only the time to file the return. An extension does not extend the time to pay any tax that may be due.

DIVORCE

154. Should there be tax planning when you are going through a divorce?

- Yes, the key to tax planning during divorce is to look at your situation objectively.

There are several questions you should ask such as:

- Who will claim the exemption for dependents?
- How will payments be allocated between alimony and child support?
- How will property settlements be handled?
- What about pension and retirement plans?

RECORD KEEPING

155. Let's turn to the issue of keeping records. How important is it to keep good records?

Keeping good records is the trick to filing a tax return with less headaches. Most people ignore this fact because it seems too simple. It is, if you regularly file away important documents throughout the year. However, if you wait to do it all at one time, you end up spending a lot of time trying to find things.

Good records are also important for another reason. You need them if your tax return is ever questioned by the IRS. You never know when you might be audited.

156. What records should people keep? And for how long?

The length of time you should keep a document depends on the action, expense, or event the document records. Generally, you must keep your records that support an item of income or deductions on a tax return until the period of limitations for that return runs out.

The period of limitations is the period of time in which you can amend your tax return to claim a credit or refund, or that the IRS can assess additional tax.

Some records you should keep for life. Others you keep until the period of limitations for that return runs out. Records you keep for life include those related to your home or any property.

Records you keep until the period of limitations for that return runs out include any document, receipt or list that you use to substantiate information on your tax form. These would include things like business expense receipts, information on contributions to charity, and records of dividends.

157. If you are self-employed, what type of records should you hang on to?

You will need to keep practically everything related to your business. You need to keep your 1099s, invoices, business ledgers, check stubs, canceled checks, bank statements and any receipts related to travel, meals, entertainment and auto use.

LAST MINUTE REMINDERS

158. Who gets audited?

- From the 50s to the 70s the IRS audited approximately 2% of the returns that were filed. However, since then, the IRS has faced the same limitations on resources that every other entity and individual in the U.S. have faced. The IRS develops each year a work plan which identifies the number and types of returns it wants to examine. Input to the selection of returns comes from many sources. If, for example, last year's returns examined indicated taxpayers were trying to interpret a tax provision in a manner different from the IRS' interpretation, more of those returns might be selected for an exam.

159. What happens if you discover an error on your return after you have filed it?

- You can correct your errors on previously filed returns by filing an amended return on Form 1040X. Show your revisions and explain the changes. If you are claiming a refund, your explanation is critical. The IRS' decision on whether to give you a refund depends on the evidence given to support your claim.

- You have to file a claim within 3 years from the date you filed the original return or within 2 years of the date you paid the tax, whichever is later. Remember that returns filed before the due date are considered filed on the due date. Remember also that if you are due a refund from your 2005 return and it was filed on time, April 15, 2009 is the last date on which any refund or credit could be claimed.

160. What is the penalty for filing and paying late?

- The penalties are separate and are computed separately. But they are usually considered at the same time. The penalty for late filing is 5% of the tax due for each month that the return is late up to a maximum of 25%. For late payment, the penalty is 1/2 of 1% of the tax due for each month you are late up to a maximum of 25%. In addition, interest is due on the tax you owe. The rate fluctuates according to factors such as prime and average treasury rate.

161. Where can people get help with tax preparation?

- The best place to look for a CPA or tax preparer is in the yellow pages of the telephone directory under the appropriate heading. The IRS offers forms and limited tax assistance at its offices weekdays during normal business hours. The New Orleans IRS office is located at 1555 Poydras Street. The IRS also has a toll free number which is 1-800-829-1040 for tax questions. Federal forms can be obtained at the Poydras Street location or by calling 1-800-829-FORM. You can now request forms on the Internet at www.irs.gov. The Louisiana Department of

Revenue and Taxation is also at 1555 Poydras. Federal forms are also usually available at post offices and some banks.

The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 or older with their tax returns. To find a VITA site near you, call 1-800-829-1040. You can also call the AARP at 1-888-227-7669.

The Loyola College of Law VITA Program will hold tax preparation sessions on Saturdays, 10 a.m. - 2 p.m., and Mondays and Thursdays, 5-7 p.m., from January 31, 2009 through April 13 at Loyola University College of Law, 526 Pine Street, Room 153. Call (504) 861-5668.

Don't forget about the internet, too. Some online vendors offer online tax preparation and e-file services.

162. What if I can't pay the tax I owe?

The IRS introduced a program to allow you to pay taxes in installments. Form 9465-should be obtained from IRS and attached to your return which you should file by the due date, April 15, 2009. You may also be able to apply for an installment agreement online. That's the good news. The bad news is the IRS has initiated a "user fee" or processing charge for installment agreements. The fee for entering into an installment agreement is \$105 (\$52 for direct debit installment agreements, where the payments are deducted directly from the taxpayer's bank account). For low income taxpayers, the fee is \$43, regardless of the amount of tax owed. Of course, the most important thing to do if you find yourself in this circumstance is to bite the bullet and look at next year's probable tax liability now. Either an increase in tax withheld by your employer or an increase in estimated tax payments may help you avoid this situation.

IRS.gov has a list of what if scenarios that deals with payment and other financial problems. These scenarios, in question-and-answer format, provide information on specific actions taxpayers can take. Taxpayers unable to pay in full can likewise contact the IRS to discuss additional options to pay.

163. Is there any help for people who owe back taxes?

The IRS employees have flexibility to work with struggling taxpayers to assist them with their situation. Depending on the circumstances, taxpayers in hardship situations may be able to adjust payments for back taxes, avoid defaulting on payment agreements or possibly defer collection action.

The IRS reminds taxpayers who are behind on tax payments and need assistance to contact the phone numbers listed on their IRS correspondence.

There could be additional help available for these taxpayers facing unusual hardship situations.

Here are some areas where the IRS can provide assistance:

- Postponement of Collection Actions
- Added Flexibility for Missed Payments
- Additional Review for Offers in Compromise on Home Values
- Prevention of Offer in Compromise Defaults
- Expedited Levy Releases

164. What should I do if I get a notice from IRS?

Always respond to the notice. If there is a telephone number and a name on the notice, call that person at the number given. If there is only an address, write to the address. If you get a second notice, write a second time with a copy of the first letter. The IRS is trying to use computers to assist in tax administration. Computers don't change until new data is entered.

165. What should I do if my W-2 is incorrect or a 1099 form is incorrect?

It is best to get an amended W-2 or an amended 1099 from your employer or the payor of income before filing your return. Electronic cross checking, which IRS does on returns, will most likely cause you future problems.

If your employer will not give you a W-2 that you think is correct or the payor of income will not correct a 1099 form, make a statement with your return that you disagree with amounts reported and why you disagree. This should put you in a better position should you get audited.

MISCELLANEOUS

166. What do I do if I cannot file my return by April 15?

You can use Form 4868 to obtain an automatic 6-month extension of time to file your tax return.

167. Does my return have to be on paper?

No, electronic filing allows qualified filers to transmit tax return information directly to an IRS Service Center, usually over the internet. Taxpayers may e-file their tax returns through a paid preparer (or an electronic return originator), by using a personal computer, access to the internet, and commercial tax preparation software, or by qualifying for and enrolling in the Free File program.

Free File was launched as a public-private sector initiative with commercial software providers to provide free tax return preparation and electronic filing service for middle and low income taxpayers with an adjusted gross income of \$56,000 or less.

The IRS and its partners are offering a new option, Free File Fillable Tax Forms, that opens up Free File to virtually everyone, even those whose incomes exceed \$56,000.

Free File Fillable Tax Forms allows taxpayers to fill out and file their tax forms electronically, just as they would on paper. This option does not include an “interview” process like the other Free File offerings, but it does allow taxpayers to enter their tax data, perform basic math calculations, sign electronically, print their returns for recordkeeping and e-file their returns. It may be just right for those who are comfortable with the tax law or those who use electronic software to prepare their returns but file using paper forms.

Both the fillable-forms option and the previously available Free File offerings are available only through the IRS.gov Web site.

168. What is the advantage of e-filing?

This year, electronic filing options will speed the payment of refunds to millions of taxpayers. Taxpayers who e-file and choose direct deposit for their refunds, for example, will get their refunds in as few as 10 days. That compares to approximately six weeks for people who file a paper return and get a traditional paper check. This year, taxpayers can begin filing electronically on January 16.

169. How do I pay any taxes that I owe?

If you owe additional tax, you can pay by check, money order, or credit card. If you file your return electronically, you also may be able to make your payment electronically.

If you pay by credit card, the service provider generally charges a convenience fee based on the amount you are paying.

170. Where is my refund?

For refund inquiries you can call 1-800-829-1954 or go to the IRS website at www.irs.gov. There is an online tool called where's my refund where you can track your refund. You can generally access information about your refund 72 hours after the IRS acknowledges receipt of your e-filed return, or three to four weeks after mailing a paper return. You should have a copy of your tax return handy. You will need to provide the following information from your return:

- Your Social Security Number (or Individual Taxpayer Identification Number);
- Filing status (Single, Married Filing Joint Return, Married Filing Separate Return, Head of Household, or Qualifying Widow(er))
- The exact whole dollar amount of your refund

171. Here are some highlights about the IRS website.

When visiting the IRS.gov Web site this filing season, taxpayers may notice the new “rotating spotlight” feature on the homepage. The spotlights, which change every few seconds, give the taxpaying public direct access to more of the IRS Web site’s vast amount of content.

Also on the homepage, taxpayers can click on 1040 Central to find help preparing and filing their tax returns. Like last year, this popular section of IRS.gov has a wide range of offerings that address taxpayer needs.

Finally, the IRS is producing a number of podcasts this filing season that will be available on IRS.gov. In addition to Tax Tips, Fact Sheets and News Releases, these short audio interviews cover a wide range of topics and are a way for the IRS to reach out to a new generation of taxpayers.