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STIMULUS BILL INCLUDES TAX CREDIT/INCENTIVE PROGRAM CHANGES

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), commonly known as the Stimulus Bill. Certain provisions of ARRA result in changes to the Work Opportunity Tax Credit program (WOTC), other tax credit/incentive programs and the addition of new incentive programs.

Work Opportunity Tax Credit. The ARRA creates 2 new targeted groups for the Work Opportunity Tax Credit. The new categories are unemployed veterans and disconnected youth who begin work for the employer in 2009 or 2010.

- An unemployed veteran is defined as an individual certified by the designated local agency as someone who: (1) has served on active duty (other than for training) in the Armed Forces for more than 180 days or who has been discharged or released from active duty in the Armed Forces for a service-connected disability; (2) has been discharged or released from active duty in the Armed Forces during the five-year period ending on the hiring date; and (3) has received unemployment compensation under State or Federal law for not less than four weeks during the one-year period ending on the hiring date.

- A disconnected youth is defined as an individual certified by the designated local agency as someone: (1) at least age 16 but not yet age 25 on the hiring date; (2) not regularly attending any secondary, technical, or post-secondary school during the six-month period preceding the hiring date; (3) not regularly employed during the six-month period preceding the hiring date; and (4) not readily employable by reason of lacking a sufficient number of skills.

  For purposes of the disconnected youths, it is intended that a low-level of formal education may satisfy the requirement that an individual is not readily employable by reason of lacking a sufficient number of skills. Further, it is intended that the Internal Revenue Service, when providing general guidance regarding the various new criteria, shall take into account the administrability of the program by the State agencies.

- ***Effective date*** The provisions are effective for individuals who begin work for an employer after December 31, 2008.

Advanced Energy Investment Credit. The ARRA establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after date of enactment, and may allocate up to $2.3 billion in credits. Advanced energy property includes technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration**.**

Grants Enacted to Substitute for Certain Credits. The Low-Income and Housing Credit and the Energy Credit for Electricity Produced by Alternative Energy Sources can be obtained as a grant from the Treasury Department (through the state agencies allocating the LIHC). This was to help overcome the fact that investors might not be sufficiently interested in tax credits appetite and would thus be otherwise reluctant to invest in these projects. The LIHC project must be placed in service in 2009 and 2010, and this applies to credits for a taxpayers first three years beginning after 2008.

New Markets Tax Credit. Under current law, there are $3.5 billion of New Markets Tax Credits available for each of 2008 and 2009. The provision increases the available credits for 2008 to $5 billion and the available credits for 2009 to $5 billion**.**

Energy Credits. The renewable energy production credit has been extended for three years through 2013 (2012 for wind). This is a credit for producing electricity from biomass, landfill gas, hydro, wind, etc. These technologies can claim the credit as a 30% investment credit in one year instead of the previous 10 year spread. The caps on the small wind energy property, solar water heating property, and geothermal heat pumps were eliminated, so these credits are now unlimited (beginning 2009).

Tax Credits for Alternative Refueling Property. The alternative refueling property credit provides a tax credit to businesses (e.g., gas stations) that install alternative fuel pumps, such as fuel pumps that dispense E85 fuel, electricity, hydrogen, and natural gas. For 2009 and 2010, the 30% alternative refueling property credit for businesses (capped at $30,000) has been in increased to 50% (capped at $50,000). Hydrogen refueling pumps remain at a 30% credit percentage; however, the cap for hydrogen refueling pumps has been increased to $200,000. In addition, the 30% alternative refueling property credit for individuals (capped at $1,000) has been increased to 50% (capped at $2,000).

Plug-in Electric Drive Vehicle Credit. The ARRA modified and increased a tax credit passed into law at the end of last Congress for each qualified plug-in electric drive vehicle placed in service during the taxable year. The base amount of the credit is $2,500. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit is increased by $417, plus another $417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 16 kilowatt hours. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter in which the manufacturer records its 200,000th sale of a plug-in electric drive vehicle. The credit is reduced in following calendar quarters. The credit is allowed against the alternative minimum tax (AMT). The ARRA also restored and updated the electric vehicle credit for plug-in electric vehicles that would not have otherwise qualified for the larger plug-in electric drive vehicle credit and provides a tax credit for plug-in electric drive conversion kits.

Addition of Permanent Sequestration Requirement to CO2 Capture Tax Credit. Last year, Congress provided a $10 credit per ton for the first 75 million metric tons of carbon dioxide captured and transported from an industrial source for use in enhanced oil recovery, and $20 credit per ton for carbon dioxide captured and transported from an industrial source for permanent storage in a geologic formation. Facilities were required to capture at least 500,000 metric tons of carbon dioxide per year to qualify. The ARRA requires that any taxpayer claiming the $10 credit per ton for carbon dioxide captured and transported for use in enhanced oil recovery must also ensure that such carbon dioxide is permanently stored in a geologic formation.

American Recovery and Reinvestment Act of 2009