

## Mid-Year Tax Update: Ideas and Information from EZKR Certified Public Accountants and Consultants



### Big Breaks for Business: What the Economic Stimulus Means to You

By Peter D. Brown, CPA, M.S.  
EZKR Tax Manager

On February 17, 2009 President Obama signed into law the much-anticipated economic stimulus package known as The American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

The stimulus package contains several features that may help your business. Two provisions allow business owners to recoup more of the cost of an asset through tax savings in the year of purchase, as opposed to spreading the savings throughout the tax life of the asset. The 50% first year bonus depreciation allowed under the 2008 Economic Stimulus Act is extended into 2009, as was the section 179 expensing amounts to \$250,000 for the 2009 tax year. In addition, business owners who acquire a passenger vehicle in 2009 will be able to deduct a larger amount of the cost in 2009 (subject to dollar caps on depreciation).

The downturn in the economy has caused many businesses to experience what is known as a net operating loss (when operating expenses exceed business-related gross receipts). Because businesses can use a net operating loss in one year to offset a profit from previous years (a "carryback"), the loss may be a source of much-needed cash if taxes were paid on taxable income for any of the preceding five tax years. For qualified businesses whose average gross receipts are \$15 million or less, the stimulus package extends the normal two-year carryback period to five years for 2008. This new carryback period applies only to net operating losses for any tax year beginning or ending in 2008. If the taxpayer does not qualify for the new five-year period, the normal two-year carryback period still remains. Any unused net operating loss not used as a carryback can be carried forward to offset subsequent years' profits.

With so many taxpayers involuntarily unemployed and without the financial ability to afford COBRA health benefits, the stimulus package has a provision to help. An individual who is involuntarily separated from employment between September 1, 2008 and January 1, 2010 can now elect to pay 35 percent of the cost of COBRA coverage and have it treated as paying the full amount. The former employer

remains responsible for the remaining 65 percent but is reimbursed for this added cost by taking a credit on the payroll tax return for the period in which the payment is made. The IRS has modified the payroll tax form 941 to add a few new lines to report these amounts.

There are some other areas impacted by the stimulus package and worth noting:

- Built in gains periods for S Corporations recognizing built in gains during 2009 and 2010 lowered from 10 years to seven years
- For certain business owners, estimated tax payment requirements for underpayment purposes decreased from 100 percent of prior year tax to 90 percent
- Qualified business stock increased exclusion from 50 percent to 75 percent for stock acquired after the date of enactment of the bill and before January 1, 2011
- Cancellation of indebtedness income can be spread over a five-year period for certain taxpayers



### Asked and Answered: Is Now the Time For a Financial Checkup?

By Harvey D. Zucker, CPA  
Harvey is a founding partner of EZKR

**Accountant:** *It's time we sit down and do a thorough financial review.*

**Client:** *Why now? There isn't much to review. My stock holdings are decimated, the value of my home has plunged, business has declined... not to mention how much I lost in my retirement plans.*

**Accountant:** *While it might seem like there's nothing to talk about, this is actually the perfect time for a financial review. With all that's happened during the last year and a half, old assumptions and valuations are askew and need to be reassessed. There may even be some tax-savings opportunities you're not aware of.*

A few examples:

- **Succession Planning** – This may be the time to gift some stock of your corporation to the next generation. If your company has been hit as hard as many have, a gift or sale could be made at much lower values, thereby reducing any gift or estate taxes.

(Continued on next page)

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120 Bloomingdale Road • White Plains, NY 10605  
914-428-7733 • ezkr CPA.com • contactus@ezkr CPA.com

A MESSAGE FROM EZKR Accounting and Consulting

## (Asked and Answered...)

- **Retirement** – In 2010, you can convert your IRA to a Roth IRA as long as the tax is paid on the conversion. Generally, this would make sense for those taxpayers who can afford to pay the tax out of personal funds. Now, with the value of the IRA substantially reduced, others may also want to convert in 2010.
- **Estate Planning** – With stock, real estate and businesses at low values, it might be a good time to review your life insurance coverage. Is it too much based on the new estimate of your estate? If so, consider surrendering, or selling, the policy and keeping the cash value. Of course, there are other factors to consider, such as age, health issues, etc.
- **Education: 529 Plans** – You may want to accelerate contributions, or increase annual contributions, both within allowable limits, to make up for any losses.
- **Investments** – If you're still holding on to your mutual funds – whether personal or in your retirement plan – now would be a prudent time to look at them again. Due to the decline in the stock market, you may need to revise your goals (and the strategies for meeting them) and create a recovery plan. (For instance, a change in the mix and amounts in the funds. Minor changes can improve overall performance). A similar review should be done with stock portfolios.
- **Personal Budgeting** – You may need to change your spending habits in order to meet long-term goals. A personal expense worksheet can help you better understand where your spending is and identify areas to cut back or eliminate.
- **Insurance review** – All insurance should be reviewed for adequate coverage and fair premiums. Life insurance premiums can sometimes be reduced or eliminated while still keeping the policy benefit. Disability insurance needs to be updated as income changes. New products are making long-term care insurance more affordable. Auto, homeowners and umbrella policies should be reviewed, too.

**Client:** *Sounds like plenty to talk about. When can we get together?*



## What You Can Learn From Your Accountant on the Golf Course - the Back Nine

**By Douglas S. Ruttenberg, CPA**

*Doug is a founding partner of EZKR and head of the firm's tax department. He serves on the Partnerships and LLCs Committee of the New York State Society of Certified Public Accountants.*

**The snow has melted and the birds are chirping... it's time to get back on the golf course. As I've said before, a day of golf with clients is always time well spent. Today, on the back 9, I'm reviewing the latest retirement strategies.**

**10th Hole** - For sole owners of a business, the easiest type of retirement plan may be a Simplified Employee Pension (SEP). These plans have strict coverage requirements for employees. If your fiscal year has not ended yet, or you are on extension, you can still establish an SEP.

**11th Hole** - Eligible employers may choose a "Savings Incentive Match Plan for Employees" (SIMPLE). There are two types of SIMPLEs: an IRA or 401(k). These plans are similar to more traditional 401(k) plans. Eligible employees, including the employer, can defer a portion of their own salary into these plans. Employers are required to make one of two types of matching contributions.

**12th Hole** - For larger employers, a more traditional 401(k) may be best. The annual salary deferrals are higher and with greater employee participation the employers' cost may be reduced. (If you have more than 100 to 120 eligible employees, you may be required to have a 401(k) financial statement audit. EZKR is one of the few firms that can provide this specialized service.)

**13th Hole** - A 401(k) must be subject to "non-discrimination" testing by your pension advisor to avoid excess salary deferrals by highly compensated employees as compared to non-highly compensated employees.

**14th Hole** - So-called Uni-Ks for sole owners of a business with no employees allow the owner to

defer the maximum into their own 401(k). Add a profit sharing feature to maximize your deduction and contribution.

**15th Hole** - In some cases, a Profit Sharing (PS) Plan – calculated as percentage of payroll for all eligible employees – is the way to go. You should also consider the additional benefits of a Tiered or Integrated PS Plan. Each may offer more favorable allocations.

**16th Hole** - Some employers like the idea of a Defined Benefit (DB) Pension Plan. With a DB plan, the contributions are calculated based on a predetermined benefit based on the age and the number of years until retirement of the participant. For some employers, the combination of 401(k), Profit Sharing and Defined Benefit plans can allow for very significant retirement plan contributions.

**17th Hole** - Depending on an employer's budget, they may be able to reach their own retirement contribution goal while minimizing the cost for employees through the addition of these added features we've talked about.

**18th Hole** - As we finish the round, remember the many choices of retirement plans, the current tax benefits of funding retirement plans, and the building of assets for retirement. Benefits and limitations vary and each requires a detailed discussion with a qualified retirement plan advisor as well your CPA.

## Update!



## IRS Offering Settlement to Encourage Compliance with New Foreign Banking Rules

**By Barbara Bel, CPA**

*A tax partner at EZKR, Barbara is president of The New York State Society of CPAs-Westchester Chapter and head of the firm's Business Services Department.*

**By Rhona L. Merkur, J.D., LL.M.**

*EZKR Tax Manager*

The U.S. Treasury recently announced an expansion and more stringent enforcement of the rules concerning reporting of foreign bank and financial accounts. All U.S. persons must report any financial interest in, or signature or other authority over, an account in a foreign country if the aggregate value of all such accounts at any time during the year exceeds \$10,000 dollars. Such accounts include bank, securities and other types of financial accounts (including debit card and prepaid credit card accounts). The IRS is actively pursuing non-compliance with this reporting.

### Here's the good news:

The IRS is offering a settlement procedure for taxpayers who come forward by September 23, 2009. Although you will still have to pay back taxes, interest and a civil penalty, those who comply with

the settlement will be freed from criminal penalties. The program requires a six year lookback. If you have an overseas account or unreported foreign income and have not filed the appropriate forms, EZKR can help you get back on the right track.

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## New Rules Regarding 403(b) Plans

**By William H. Zeboris, CPA**

*William is partner in charge of the EZKR audit practice area. He co-chairs the Audit and Accounting*

*Committee of the Westchester Chapter of the NY State Society of CPAs.*

For the first time in more than 40 years, new regulations covering 403(b) plans – a common type of pension plan utilized by many tax exempt organizations, schools and hospitals – have been issued. These new regulations will create havoc on human resources or benefits departments of plan sponsors if they are not addressed in a timely manner.

Similar to 401(k) plans, 403(b) plans allow employees to defer a portion of their compensation on a tax-deferred basis. In addition to salary deferrals, many plans allow for employer matching or discretionary contributions. Participants generally have a number of different investment options, including fixed or variable annuity contracts and mutual funds.

In November of 2007, the Department of Labor eliminated the exemption of these plans from the annual Form 5500 reporting, disclosure and audit requirements. Effective with the 2009 tax filings, all 403(b) plans covered by the Employee Retirement Income and Security Act (ERISA) will fall under the more stringent rules. Compliance with these rules will cause sponsors of “large” plans to incur additional legal costs, audit fees and staff hours to comply.

A “large” plan is described as one with 100 or more participants. For purposes of counting participants, the rules state that the sponsor must include:

- Employees with account balances
- Employees that have deferred a portion of their salary
- Employees who could have made a deferral but opted out

Many sponsors will mistakenly believe they fall under the threshold. The most common reason for miscounting the number of plan participants is the failure to count those employees who have decided not to participate in the plan.

Failure to comply with the IRS requirements could be very costly. Penalties for non-compliance could be as much as \$1,000 per day. Therefore, the following steps should be taken as soon as possible by all 403(b) plan sponsors:

1. Determine the applicability of these new requirements to plans you sponsor.
2. If your plan falls under the new requirements, retain a qualified audit firm now, so that the proper planning can occur. Even though the first audited financial statement will be required for the 2009 plan year, the Department of Labor requires that certain information be presented on a comparative basis. For a calendar year plan, the December 31, 2009 financial statements will need to be

audited. You will also need to present selected December 31, 2008 information for the plan.

3. Prepare a list of all current and prior plan vendors. This would typically include insurance companies and mutual fund families.
4. Work with your auditor to put together a document request list for each of these vendors. Generally accepted auditing standards require auditors to report on the plan as a whole and to test individual participant level details. You will need year-end investment data for all of your participants’ accounts held by that provider, as well as the details by participant for the year. The more vendors a plan uses (used), the more documents that must be requested, tested and quantified.

Start the process now and work out the kinks over the summer. The biggest challenge will be to gather all of the data required from all of the plan’s vendors. You will find that it will be provided in a multitude of formats and layouts, all of which must be consolidated and verified. In addition, steps need to be taken to ensure that no participant has been left out. You might just find that employees who left your company many years ago have not moved their contributions and are still your “responsibility” under these new regulations.



## Easing an Executor’s Burden

**by Mara Rabin, CPA**

*EZKR Tax Manager*

As the executor of an estate, you may be aware of all of the planning that was involved in creating the “perfect” estate plan. Unfortunately, while coping with the loss of a family member or loved one, the winding up of a decedent’s affairs is often a burden that cannot be fully prepared for. Even if there is a will and a plan in place, the process of fulfilling the role of executor can be challenging on many levels.

The best approach is to work with the decedent’s tax, legal, financial, and insurance advisors and to be prepared ahead of time with the basic information. An accountant’s role is often diverse. We may be called upon to prepare the decedent’s final return as well as the estate return filings, or we may act in an administrative capacity for the estate, gathering the information for the attorney that is responsible for preparing the estate filings.

I recommend an initial meeting to discuss the filing of returns and determine the accountant’s role in the overall process. In order to prepare ahead of time and to minimize the cost of what could be a cumbersome task, first gather the following important documents, if applicable:

1. A copy of the decedent’s will or revocable trust
2. A copy of the death certificate from the funeral home (obtain multiple copies as they will be requested by banking and financial institutions, insurance companies, etc.)
3. A list of the contents of safe deposit boxes
4. Title and deed to property owned, including automobiles
5. A list of bank accounts, investment accounts and retirement accounts
6. A list of insurances policies and numbers
7. Prior year’s gift tax returns if filed by someone other than the accountant
8. A list of advisors including attorneys, insurance agents, financial planners, and employer
9. A copy of the funeral bill and cemetery invoice
10. Employee information, such as salary and other benefits (like health insurance) that were provided by the decedent
11. Social security information to be obtained for coverage of minor children

The process of wrapping up a decedent’s affairs is personal as well as professional; the best advisors are able to provide not only tax services, but understanding and guidance during a most difficult time.

## MID-YEAR BUSINESS CHECKLIST

**Start:** Ask your accountant to provide you with results of the last 6 months

**Assess:**

- How is your business doing compared to the first 6 months of last year ?  
What’s better? How can it be improved?  
What’s worse? How can it be fixed?
- How is your business performing based on what you thought it would do and the budget you have set?  
What’s better? How can it be improved?  
What’s worse? How can it be fixed?
- How do the first 6 months results impact the last 6 months?  
What needs to be done now?  
What are the alternatives?  
What is the worst that could happen?  
What steps can you take to prevent it?
- What are you not addressing for the long-range health of your business?

## Howard P. Klein, EZKR Managing Partner, receives 2009 Westchester County Business Journal “Overachiever of the Year” award

On March 26, 2009, Howard P. Klein, CPA, MS, managing partner of EZKR Accounting and Consulting, LLP received the “Overachiever of the Year” award for achievement and innovation in the Westchester business community.

The award was presented by the Westchester County Business Journal at the Junior Achievement “Spirit of Achievement and Overachiever of the Year Awards Dinner 2009” at the Westchester Marriott, Tarrytown, NY.

Here is an excerpt from his acceptance speech:

“I’d like to thank the Westchester business community who make Westchester a great place to do business and a great community to live in. To me, the only thing more inspiring than achieving success is inspiring success.

Westchester County has long been a place of great achievement and inspiration for success. We all need this inspiration even more in this challenging time when the prosperity we are accustomed to is becoming more elusive and even threatened, and the possibilities available to achieve success seem fewer than before.

It is clearly a time to get together and inspire each other to success. Together we are stronger.



Howard P. Klein, EZKR Managing Partner accepts the Westchester County Business Journal “Overachiever of the Year” award from Anne Jordan Duffy of the Westchester County Business Journal

Each of us in our business and personal life has the opportunity to inspire success and to lift the cloud of doubt and concern that darkens our future.

So I invite you to become an inspiration for a brighter future.  
I invite you to become an inspiration for each other.”

## EZKR - Large Firm Resources, Small Firm Service

### ACCOUNTING AND TAX

Income tax return preparation  
Estate tax return preparation  
Gift tax return preparation  
Low Income Housing tax credits  
Reviews and Compilations  
Empire Zone tax programs  
Fiduciary accounting  
Internal acctg. dept. functions

Profit enhancement  
Capitalization  
Business financial planning  
Collaborative divorce  
Personal financial planning  
Personal budgeting  
Retirement planning  
Estate planning

### AUDITS

Commercial audits  
Not-for-Profit audits  
401k audits  
Pension audits  
Co-op and Condominium audits  
Reviews and Compilations  
Yellow Book and A-133 audits  
Cost Certifications

### VALUATIONS

Buy/Sell agreements  
Impairment of Goodwill (FAS 142)  
Purchase Price Allocation (FAS 141)  
Business succession planning  
Planning for growth and exit strategies  
Shareholder / Partner disputes  
Liquidation-Reorganization  
Estate and Gift tax planning and compliance

### FINANCIAL CONSULTING

Tax planning  
Business budgeting / projections  
Business succession planning  
Exit strategies  
Preparation for sale  
Mergers and Acquisitions

Matrimonial disputes / Divorce, including Expert testimony  
Mergers and Acquisitions

### TRANSACTION ANALYSIS

Due Diligence  
Mergers and Acquisitions  
Sales and Divestitures

### LITIGATION SUPPORT AND ALTERNATIVE DISPUTE RESOLUTION

Forensic accounting and analysis  
- Economic loss  
- Breach of Contract  
- Fraud and Embezzlement  
Insurance claims analysis  
Electronic data discovery and analysis  
Shareholder / Partner disputes  
Expert testimony  
Consulting expert  
Arbitration  
Mediation  
Collaborative divorce  
Business and Asset valuation

### CORPORATE RECOVERY SERVICES

Profit improvement plans  
Analyze and monitor short-term cash flows  
Viability analysis  
Search for hidden / undervalued assets  
Debt restructuring / loan workouts  
Support to debtors / creditors / chapter 7 and 11 trustees and counsels  
Examinerships / Trusteeships  
Receiverships  
Solvency analysis  
Investigate / defend potential preferences and fraudulent transfers  
Assist in preparation / review of plans of reorganization / liquidation  
Formulate exit strategies

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120 Bloomingdale Road • White Plains, NY 10605  
914-428-7733 • ezkrpa.com • contactus@ezkrpa.com