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Planning Alert November 2009

First-time Homebuyer Credit Provisions Expanded – In 2008, the First-Time Homebuyer Tax Credit was created which provided for a credit of up to \$7,500 to first-time homebuyers buying a home after April 8, 2008. This first credit had a 15-year recapture provision (where the credit is repaid interest-free over 15 years at \$500 per year). For home purchases after 2008, the credit was increased to \$8,000 with recapture only if the home is sold within 36 months. The credit was subject to phase-out for joint filers with AGI between \$150,000 and \$170,000. Both of these provisions were available only to individuals who had no ownership interest in a principal residence in the U.S. during the 3-year period before the purchase of the home. Recognizing that some new homeowners may not want to wait until their 2009 tax returns are completed in early 2010, the credit provisions allowed taxpayers buying a new home before December 1, 2009 to elect to take the credit on their 2008 income tax return rather than waiting for 2009. This allowed acceleration of the credit for many new homeowners. Finally, on November 6th, through the *Worker, Homeownership, and Business Assistance Act of 2009*, these provisions were further extended into 2010 and allowed higher-income taxpayers to qualify for the credit. Under the Act, the First-Time Homebuyer Tax Credit was extended to home purchases before May 1, 2010 (or before July 1, 2010 if a taxpayer enters into a written binding contract before May 1, 2010) with the credit phased out for joint filers with AGI between \$225,000 and \$245,000 (individuals between \$125,000 and \$145,000) and capped out on home purchases of more than \$800,000. A bonus of the new Act was the inclusion of provisions that allow “long time residents” (with an existing principal residence in 5 out of the last 8 years) to claim a slightly lower homebuyer credit of \$6,500. All in all, these provisions have already helped many new homeowners put additional cash in their pocket and with the new provisions, it is expected to help even more new homeowners during these tough economic times.

House Passes Landmark Health Care Reform Bill – Late on a Saturday night on November 7th, with a vote mostly along party lines, the House of Representatives approved H.R. 3962, the *Affordable Health Care for America Act*. The bill would make massive changes in the health care delivery system, and would fundamentally alter the way in which employers provide health coverage to employees. An underlying requirement of the bill is that most people would have to get acceptable health coverage or pay a penalty tax. The bill is now expected to face some tough opposition as the Senate considers its own version of the bill. Among the many tax changes in the bill approved by the House are a 5.4% surtax on joint filers with adjusted gross income over \$1 million (\$500,000 for individuals), a change preventing nontaxable reimbursements from health flex spending accounts, a \$2,500 cap on health FSA’s in cafeteria plans, and a tax on certain medical devices. Perhaps one of the more controversial provisions relates to employer-provided health care. For years starting in 2013, employers would have to either provide health insurance to their employees or make a contribution to help fund affordable health insurance. Employers choosing to offer health coverage would contribute at least 72.5% of the premiums for workers, and 65% for families. Low wage earners who find the employer coverage too costly could choose subsidized coverage in the health insurance exchange and the employer would have to make a contribution to the exchange. Employers not offering *qualified* coverage would pay a payroll tax equal to 8% of their payroll to help cover expenses of employees who seek coverage through the exchange (with small businesses with annual payroll less than \$500,000 being exempt). The controversy would be in who would

make the decision as to whether or not an employers health care coverage is *qualified*. Obviously, the bill is still in the early stages and faces certain difficulties in getting through the Senate, but it will be interesting to see if some of these proposals find their way out in the final bill. We'll keep you posted!

IRS Issues Proposed Regulations on Reporting of Payment Card Transactions to Merchants – As the Thanksgiving Holiday was drawing near, the Internal Revenue Service was issuing proposed regulations that would increase the information reporting requirements of banks and “payment settlement entities” for transactions involving credit and debit card payments made to merchants and other sellers of goods. Starting with transactions in 2011, the new Form 1099-K, *Merchant Card and Third-Party Payments* will be used to make these reports. The 1099-K form reporting would include the gross amount of the reportable payment transactions, as well as the name and identifying information of the participating payees. A payment card is any card that is issued pursuant to an agreement or arrangement that provides for (a) one or more issuers of the cards, (b) a network of persons unrelated to each other, and the issuer, who agree to accept such cards as payment, and (c) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept the cards as payment. So these transactions would encompass all credit cards, debit cards, stored value cards (ie: gift cards), and the acceptance as payment of any account number or other indicia associated with a payment card. Thus, transactions that we as consumers enter into with a credit or debit card either directly with merchants or online for goods that are either processed directly by a bank or a settlement entity (such as “Paypal”) will be transactions reportable to the IRS. Although the transactions will become reportable by the bank or settlement entity to the merchant or other seller of goods, they will not become reportable to each consumer/purchaser for their individual transactions. It is expected that this new reporting requirement will at least initially create a burden on the banks and payment settlement entities as the reporting systems are developed and put in place. But, according to the IRS, this new proposed regulations is in line with current provisions to improve voluntary compliance by business taxpayers and most importantly, *help the IRS determine whether tax returns are correct and complete* by having this additional third-party reporting that they did not previously have.