

SUMMER 2009

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2501 Nelson Miller Pkwy.  
Suite 102  
Louisville, KY 40223  
502.244.7714 phone  
502.244.7765 fax

106 West Vine Street  
Suite 600  
Lexington, KY 40507  
859.255.2341 phone  
859.255.0125 fax

## Energy Conservation Tax Incentives Included in Stimulus Act

In our Spring 2009 newsletter, we discussed provisions included in The American Recovery and Reinvestment Act of 2009 ("the Stimulus Act") that fell into the categories of business and individual tax incentives. In this issue, we will discuss a couple of the Stimulus Act's energy conservation tax incentives. Before looking at these tax credits, though, note the favorable absence of income-based phase-out limits for each of these incentives.

**Energy-efficient home improvements.** The tax credit (called the nonbusiness energy property credit) equals 30% of what you pay for (a) qualified energy efficiency improvements (such as certain energy-efficient insulation, windows, doors, and roofs), and (b) qualified residential energy property (such as certain energy-efficient heat pumps, hot water heaters or boilers, central air conditioners, and advanced main air circulating fans). The improvements must be to your principal residence, not to vacation homes, to qualify. A \$1,500 cap on aggregate credits claimed in 2009 and 2010 for all types of eligible expenditures applies. In other words, the \$1,500 cap applies to the aggregate amount of credits claimed in both years combined.

If there is any possibility you will be subject to alternative minimum tax ("AMT") next year, you may want to make these improvements before year end. Why? This credit can be used to offset AMT in 2009, but, absent Congressional extension, the offset will not be available in 2010.

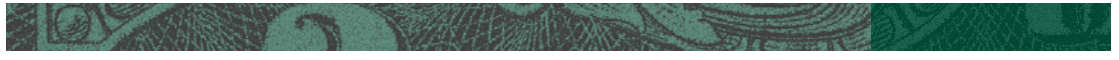
**Using solar, wind, geothermal, or fuel-cell energy to power your home.** Although the costs of qualifying expenditures tend to be steep, if

you install solar, wind, geothermal, or fuel-cell energy-saving equipment in 2009, you may be able to take advantage of the residential energy-efficient property (REEP) credit. The REEP credit equals 30% of expenditures to install: (1) qualified solar water heating equipment, (2) qualified small wind energy equipment, (3) qualified geothermal heat pumps, (4) qualified solar electricity generation equipment, and (5) qualified fuel-cell equipment.

The credit only applies to equipment you place in service in your U.S. residence, and it cannot be claimed for equipment used to heat a swimming pool or hot tub. The credit for fuel-cell equipment is only available for your principal residence; the two solar credits apply to any residence (including vacation homes).

To determine whether your planned home improvement or energy conservation initiative qualifies for the nonbusiness energy property or REEP credit, start your search at [www.energystar.gov/taxcredits](http://www.energystar.gov/taxcredits). Then, be sure the product satisfies the required energy-saving conditions for the REEP credit, and check the product package materials or manufacturer website before making the purchase. According to the IRS, you can rely on the manufacturer's written certification statement, which is typically included with the product package materials or on the manufacturer's website. You just need to keep a copy of this certification as part of your tax records.

Please contact us if you would like more information about these tax-savings programs.



## Kentucky Tax Changes Made in Special Session

As part of its 2009 Special Legislative Session, the Kentucky legislature passed House Bill 3, which has several important tax provisions. Governor Beshear signed the bill on June 26. The changes include:

- Effective for 2010, active-duty military pay is exempt from Kentucky individual income tax.
- Effective for sales of new vehicles between September 1, 2009, and August 31, 2010 (or sooner if a \$25 million tax credit cap is met), the price of a **new** vehicle subject to Kentucky's 6% motor vehicle usage tax is reduced by the trade-in value of any vehicle traded in. This offset is available on a first-come, first-served basis until the \$25 million cap is met.
- Effective August 26, a one-time nonrefundable **new** home tax credit against Kentucky individual income tax is established. The \$5,000 tax credit is for qualified homebuyers who purchase a new (as certified by the seller) home as their principal residence. A qualified homebuyer is one who is **not** eligible to receive the first-time homebuyer credit allowable under federal law. This credit is available for one year from the effective date, subject to a \$25 million cap on the total credits awarded. In order to qualify for the credit, the homebuyer must fax a completed application within 7 calendar days after the purchase. This credit is available on a first-come, first-served basis until the \$25 million tax credit cap is met. Any credit claimed must be repaid if the qualified buyer does not occupy the new home for at least two years.
- The legislation significantly amends current Kentucky economic development programs (i.e., KIDA, KREDA, KJDA, and KEIA programs), provides incentives for companies which make large purchases of communications or computer equipment, and establishes several new industry-specific tax incentives (i.e., film industry, tourism industry, and railroad industry). These tax incentive changes generally will be effective July 1, 2010.
- The legislation also establishes a new small business tax incentive. This incentive is a nonrefundable income and limited liability entity tax credit for small businesses investing \$5,000 or more in qualifying equipment or technology and establishing one or more eligible positions over base employment. The maximum amount of credit for each small business is \$25,000 per year. The total annual cap for this program is \$3 million in credits. Credits must be approved by the Kentucky Economic Development Finance Authority and may be carried forward for five years. This new small business incentive program is available for tax years beginning after 2011.

Please contact us if you have questions about these late-breaking developments.

Mike Harbold  
mharbold@ddfky.com

### Inflation Erodes Capital Loss Deduction

People, unfortunately, have thought more about capital losses in the last year or so than in many previous years. Realized capital losses, net of realized capital gains, generally are deductible on joint or single individual returns up to \$3,000 per year against ordinary income. Any excess carries forward, subject to a similar limit in future years.

The \$3,000 annual limit now is in its 31st year, having been set at this amount in 1978. If this limit had been adjusted for inflation, the limit now would be \$10,000.

### Did You Know...

...that more than one-half of last year's U.S. home mortgage loan foreclosures occurred in just 35 counties? Most of these counties are clustered in formerly "hot" areas such as Southern California, Las Vegas, Phoenix, South Florida, and Washington, DC. Some are in already-distressed areas near Detroit and Cleveland. About a quarter of 2008 home loan foreclosures occurred in eight counties in Arizona, California, Florida, and Nevada.

Source: USA Today, 3.9.2009





## People News

**Doug Dean** was one of five panelists at an Asbury College forum titled “Leading Through Economic Crises.”

**Kathy Jaeger** is serving as Treasurer of the United Way of the Bluegrass.

**Doug Dean** and **Leigh McKee** spoke at the 24th Annual National Conference on Equine Law sponsored by the University of Kentucky School of Law. Doug discussed partnership tax issues, and Leigh discussed conservation easement tax incentives.

**Jen Shah** addressed a Thoroughbred Owners and Breeders Association’s New Owners Seminar at Churchill Downs. She discussed tax implications of thoroughbred horse operations.

**Leigh McKee** spoke on sales, exchanges, involuntary conversions, and charitable contributions of horses at the National Thoroughbred Racing Association’s Equine Tax Forum at Keeneland.

**John Herring** passed the AICPA’s Accredited in Business Valuation (ABV) exam and received his ABV designation. He was also appointed Vice President/Treasurer of the Kentucky Tennis Association.

**John Calabrese, Ashley Hays, and Lisa Wilson** successfully completed the CPA examination. Congratulations to all of them, and to **Andrea Mullins**, who now is a licensed CPA.

The matters discussed in these articles provide general information only. You should consult with us about your specific situation before undertaking action based on such general information.

“The only difference between death and taxes is that death doesn’t get worse every time Congress meets.”

Will Rogers

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