

# INSIGHT

**Inside this Issue:**

<b>Resetting Social Security</b>	1
<b>Claiming an Ordinary Loss if You Have Been the Victim of A Ponzi Scheme</b>	2
<b>Traditional IRA's and Roth Conversions In 2009 and 2010</b>	2
<b>Get the Most Out of Depreciation in 2009</b>	2
<b>Maximize the Benefit of a Loss Carryback</b>	2
<b>Reduction of Estimate Tax Payments</b>	3
<b>Maximize Tax Benefit Debt Cancellation</b>	3
<b>Reduction of Home Mortgage Debt</b>	3
<b>Take Advantage of The First-time Homebuyer Credit</b>	3
<b>Filing Deadline for TD F 90.22-1</b>	3
<b>Cash for Clunkers</b>	4
<b>Employee Profile</b>	4

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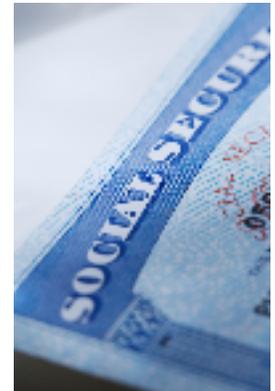
We at T. M. Byxbee Co. P.C. are certainly aware that these are difficult economic times for businesses and individuals. There are, however, some tax and financial planning options that individuals and businesses may be able to take advantage of in 2009 that can be helpful in these difficult circumstances. We discuss some of them in this edition of Insight.

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## **Resetting Social Security**

Although you may begin to receive Social Security at age 62, you will earn an extra 6% to 7% for each year you defer taking Social Security benefits until age 70. Those who began collecting Social Security benefits at age 62 typically receive benefits that are about 25% lower than the benefits they would have received had they waited to draw Social Security benefits at their full retirement age. Early recipients of social security must pay back a portion of their benefits in any year in which their earnings exceed a certain threshold. Because of the recent economic downturn, some retirees have returned to work and are rethinking their decision to begin taking Social Security payments at age 62.

If you have started collecting Social Security you can set the clock back on your benefits provided you repay all benefits that you have received. You should probably discuss this issue with your advisor here at T. M. Byxbee before making a final decision on this matter; but if you have started taking Social Security and then returned to the workplace, you do get the chance to rethink your decision to start taking Social Security payments early.



## Claiming an Ordinary Loss if You Have Been the Victim of a Ponzi Scheme

If you have been an investor in a Madoff type Ponzi scheme, (it doesn't have to be an investment with Bernie Madoff – unfortunately there are many other similar scams that are not as famous) please talk to your CPA here at T. M. Byxbee. The IRS has issued several rulings on this issue that basically say if you have lost money by investing in a Ponzi scheme, you may be able to get an ordinary loss for the amount of your investment – and carry that loss back for 5 years. These rules tend to be complex; but please notify us as quickly as possible so we can work to protect your interests if you think you have lost money in such an investment.



## Traditional IRAs and Roth Conversions in 2009 or 2010

In response to steep declines in the value of retirement account portfolios, Congress created a one year exemption from required minimum distributions (RMDs) for 2009 only. This exemption does not apply to the April 1, 2009 deadline for an initial required distribution relating to 2008.



Roth IRAs offer different tax and estate planning advantages than traditional IRAs. A Roth IRA does not have required minimum distributions – you are not required to take a distribution when you are 70 ½ years of age or in later years – and the earnings will not be taxable to you when you, or your heirs, do take a distribution. In order to be able to convert a traditional IRA to a Roth IRA in 2009, your adjusted gross income has to be below \$100,000. For 2010, not only is your adjusted gross income irrelevant; but you can actually pay half of the tax on conversion in 2011 and half in 2012. This is something everyone should be thinking about in 2009 and 2010. If the value of the investments in your IRA has declined, the income you have to pay tax on when you convert will be less.

## Get the Most Out of Depreciation in 2009

For 2009, the Section 179 deduction allows you to expense \$250,000 of tangible business property (not including rental property) – this deduction begins to be

phased out if you place more than \$800,000 of such property in service. For most of our clients this means that all of their tangible personal business property purchases for 2009 can be expensed. Thus if you buy assets such as computers, furniture, equipment, etc., you can fully deduct the cost in 2009.

This generous deduction does not mean you should go out and buy tangible personal property just to get a tax deduction – but if you need the property and would buy it anyway in 2009, the tax code works in your favor by allowing you to deduct so much of it. If you put more than \$250,000 of tangible personal property in service in 2009, you can still elect to get further additional accelerated depreciation deductions as the rules for 2009 allow for additional (“bonus”) depreciation, which lets you deduct 50% of most other kinds of tangible personal property. This 50% bonus depreciation deduction is allowed based on the cost of qualifying property, whether or not you have elected the Section 179 expensing deduction. Don't let the tax tail wag the dog; but if you need the property, 2009 certainly has very favorable tax rules relating to depreciation that will benefit the taxpayer. You should check with your advisor at T. M. Byxbee to help you navigate your alternatives.

## Maximize the Benefit of a Loss Carryback

If your business had a loss in 2008, you may be able to carry that loss back 5 years and thereby get a refund for the tax you paid going all the way back to 2003. For losses that would otherwise have a maximum carryback period of two years, new legislation allows the taxpayer to elect to carry such 2008 losses back three, four or five years. In order to qualify for this provision, your business must have average gross receipts of \$15 million or less over the years 2006, 2007 and 2008.



The temporary extension of the loss carryback period effectively allows qualifying small businesses that generate losses in 2008 (as a result of the current economic downturn or otherwise) to increase available cash by obtaining income tax refunds for prior years that would otherwise have been beyond the reach of the loss carryback period—which usually is only for two years. If loss carrybacks create only minimal tax benefit, you may elect to waive the carryback period and use the losses to offset future income.

## Reduction of Estimate Tax Payments

Normally, small businesses have to pay 100% or 110% of their previous year's taxes in estimated taxes in order to avoid a penalty for underpayment of estimated taxes. For 2009 only, qualifying small businesses may reduce their estimated payments to 90 percent of the previous year's taxes.

Most individuals avoid estimated tax underpayment penalties by paying in combined withholding and estimated payments either

- 90% of current year tax, or
- 100% of prior year tax (110% for those with prior year adjusted gross income over \$150,000).

For 2009 only, individual taxpayers may reduce the 100% and 110% amounts to 90%. It applies to individuals with 2008 AGI up to \$500,000 who had more than 50% of their 2008 income from a qualified small business.

## Maximize the Tax Benefit of Debt Cancellation

A taxpayer incurs "cancellation of debt income" (CODI) when its debt is forgiven, reduced or repurchased at a price lower than the debt's issue price. CODI can arise in situations that are becoming increasingly common in the current economy, including occasions when a business debtor and a creditor agree to a modification or partial or complete forgiveness of debt.



Under new rules, certain businesses may elect to defer recognition of CODI when a debt instrument is repurchased for cash, exchanged for debt (including a modification that is treated as an exchange for tax purposes), exchanged for stock or a partnership interest or contributed to capital (each such instance a "reacquisition") by the issuer or a related person, or is forgiven by the debt holder, during calendar years 2009 and 2010.

This is another complex provision – but it might be very helpful for your business. If you are negotiating with creditors and are thinking about arranging for creditors to own part of your business, please give us a call immediately.

## Reduction of Home Mortgage Debt

Are you arranging for a reduction or an adjustment of the mortgage on your principal residence? If you are, there is a provision that allows you to do this without taking any CODI into account – but it is quite complex, so please call your advisor at T. M. Byxbee BEFORE you enter into any of these transactions. If you don't do it right, debt reduction might be income to you.

## Take Advantage of the First-time Homebuyer Credit

You or your adult child might be a first-time homebuyer in 2009 – and if you are you might be eligible for an \$8,000 credit. The credit is 10% percent of the purchase price of the home – capped at \$8,000. This credit applies to first-time home buyers – individuals who have not owned a principal residence in three years but, unlike the previous 2008 credit, does not have to be repaid. To qualify for the \$8,000 credit that does not have to be repaid, the taxpayer must purchase a home on or after January 1, 2009 and before December 1, 2009.



This credit is subject to income limitations. Single buyers need a modified adjusted gross income of \$75,000 or less to qualify for the full credit, (\$150,000 for married couples). Those earning more than these thresholds may be eligible for reduced credits. Better yet, this credit is refundable -- qualified buyers can take advantage of it even if they do not actually owe any federal income tax. Buyers have to own the home for at least three years in order to avoid having to repay the credit. If they sell the home before then, they will have to return the credit to the government. (Exceptions will be made in certain cases, such as death or divorce.)

## Filing Deadline for Form TD F 90.22-1

A taxpayer with more than \$10,000 in foreign bank accounts is required to file Form TD F 90.22-1 annually with the Department of Treasury by June 30. The IRS has announced a voluntary compliance period expiring on September 23, 2009 for people who have failed to report such accounts in the past. Please contact your advisor at T. M. Byxbee if you need to file this form for 2008, or if you think you have any foreign bank accounts which may have gone unreported in the past.



### Cash for Clunkers

For a limited time you may be eligible for a rebate of up to \$4,500 if you buy a new car and turn in a "clunker." For passenger autos, the rebate voucher amount is \$3,500 if the new fuel efficient automobile you buy is a passenger automobile and its combined fuel economy (CFE) is at least 4 mpg higher than the CFE of the eligible trade-in vehicle. The rebate voucher is \$4,500 if the new vehicle's CFE is at least 10 mpg higher. If you plan to buy a new car using a trade-in within the next several months, please contact us if you need more information regarding eligibility.

### Kathy Festa

Most of the time when we include a brief write-up about one of our principals or employees we realize that many of our readers do not know the person we are writing about. But that is not the case with Kathy Festa, our receptionist. Kathy has been with Byxbee since 1990 and even if you do not recognize her by name, you probably have spoken with her on the phone, met her in person, or both. Kathy knows every Byxbee client by name and has annual "reunions" with many of our individual and small business clients during Tax Season. As the public face of T. M. Byxbee, Kathy's job is to keep track of everyone who works here, make sure client calls are directed to the appropriate person, help clients get their questions answered, and make sure clients and others who visit our office are made welcome. Being the first person that our clients see or speak with, it is important that Kathy is nice to everyone—every day all the time—even when she has four clients on "hold" and four more at the front desk. And she succeeds in that admirably because she is a self-confessed people lover who enjoys the daily interaction that is a large part of her job. If Kathy's bubbling personality somehow fails to bring a little joy to a Byxbee visitor, the never ending supply of candy in her reception area certainly will. Outside of the office Kathy is a devoted family person, gardener, world traveler, cat fancier and even has time to keep up with the Hollywood "scene". The next time you call us or visit our office Kathy will be the first person to greet you—and you will know a little bit more about the person you are speaking with.



*The reader may obtain more information about the material in the newsletter by contacting any of the following principals of the firm:*

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Due to the complexity of tax laws and variations in individual circumstances, only a qualified professional can determine whether a specific action is appropriate for you.

For further information, telephone any member of the firm at (203)281-4933.  
Questions or comments can be sent via e-mail to: [tmbyxbee@byxbee.com](mailto:tmbyxbee@byxbee.com)

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