

# BY THE BOOK

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## American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009 is an economic stimulus package that was signed into law February 17, 2009. The act includes measures to modernize our nation's infrastructure, enhance energy independence, expand educational opportunities, preserve and improve affordable health care, and provide tax relief. In total, the new law has over 300 changes to the Internal Revenue code.

The money allocated to the American Recovery and Reinvestment Act is broken into three main categories. The Act allocates \$288 billion or 37% to tax cuts, \$144 billion or 18% to state and local fiscal relief, and \$357 billion or 45% to federal social programs and federal spending programs.

Many of the new rules are complicated and temporary. Before implementing new procedures, please consult your tax professional to ensure you are receiving the fullest benefit from the new law.

Two provisions included in the American Recovery and Reinvestment Act, which will directly affect your employees, are the Making Work Pay Tax Credit and COBRA Health Insurance Continuation Subsidy Provision.

### **Making Work Pay Tax Credit**

Included in The American Recovery & Reinvestment Plan is the Making Work Pay Tax Credit to put money back in the pockets of working Americans. While a majority of workers are eligible for this credit, it may not be clear what exactly the credit is or who is eligible.

The Making Work Pay Tax Credit is a refundable tax credit for working taxpayers for 2009 and 2010. A refundable tax credit is a tax credit that can reduce your tax liability below zero, meaning it is possible to receive a refund with this type of credit. The credit provides about 95% of working families with a tax cut.

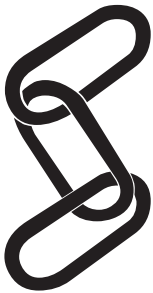
Everyone who earns income pays payroll taxes. Currently, federal payroll taxes are 15.3%, which consists of 12.4% Social Security tax and 2.9% Medicare tax. All employers are required to withhold half of the payroll tax, or 7.65%, from their employees' paychecks. The employer is required to pay the other half themselves.

The employee portion of the Social Security tax is half of the total or 6.2%. This tax rate is the starting point for the Making Work Pay Tax Credit. The credit equals 6.2% of the taxpayer's earned income up to a maximum credit of \$400 for

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individuals and \$800 for married taxpayers who file joint returns. The maximum credit amount is reached when earned income reaches about \$6,500 for individuals and \$13,000 for married taxpayers who file jointly.

The Making Work Pay Tax Credit is reduced by the amount of any Economic Recovery Payment or Special Credit for Certain Government Retirees that a taxpayer receives. If a taxpayer is affected by this reduction, he should review his withholding to ensure that sufficient funds have been withheld to meet his tax obligation.

The credit begins to phase out, meaning that its value is gradually reduced, for individual taxpayers with adjusted gross income in excess of \$75,000 and \$150,000 for married taxpayers who file joint returns. Individual taxpayers with adjusted gross income in excess of \$95,000 and \$190,000 for married taxpayers who file a joint return will not qualify for the credit.

In February 2009, the IRS issued updated withholding tables to help employers implement the withholding adjustments required by the Making Work Pay Tax Credit. IRS guidance stated that by April 1, 2009, employers must have instituted the lower withholdings for their employees. By reducing the required withholding amounts, workers' take home pay is increased immediately.

The change is automatic, so it is not necessary to submit a revised Form W-4 to receive the new credit. The amount of the credit will be spread out between April and the end of the year and will be computed on the employee's 2009 income tax return filed in 2010.

Taxpayers, who do not have taxes withheld by an employer during the year, can claim the credit on their 2009 tax return. Self-employed individuals can also evaluate their expected income tax liability and make appropriate adjustments in the amount of their regularly scheduled estimated tax payments.

Taxpayers who are not eligible for the Making Work Pay tax credit may experience a smaller refund when they do their 2009 tax return due to the withholding changes. In some situations, a limited number of people may owe a small amount rather than receive a refund. The following taxpayers should check their withholding to make sure their employer is withholding enough:

- Individuals who work multiple jobs
- Married couples with two incomes
- Dependents
- Some Social Security recipients who work
- Non-resident aliens and some resident aliens who do not have valid Social Security numbers

If a taxpayer believes their current withholding is not appropriate, a quick check can be performed using the IRS withholding calculator on the IRS website. Adjustments can then be made if necessary by filing a revised Form W-4 with the taxpayer's employer.

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## COBRA Health Insurance Continuation Subsidy Provision

Under the federal law known as "COBRA," if an employee leaves their job the employee is entitled to continue receiving health benefits at their own expense for up to 18 months.

The COBRA Health Insurance Continuation Subsidy Provision provides that the employee who has been involuntarily terminated is required to pay only 35% of the premium to continue COBRA coverage under a group plan for up to nine months. The employer (or the other entity to which the COBRA payment is payable) must pay the remaining 65%. The employer will be reimbursed by claiming a credit against any federal income tax or FICA withholding taxes it owes on wages paid. Employers who are entitled to the reimbursement are allowed to take a refundable credit on Form 941 to reduce their quarterly employment tax liability, or they may apply to receive a refund.

The IRS has issued a 2009 version of Form 941, Employer's Quarterly Tax Return, that takes into account the new federal legislation in the economic stimulus package on COBRA continuation coverage. The form should be used beginning with the first quarter return due on April 30th.



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## Summer Help and Youth

It is common for employers to hire minors during the summer; however, there are several regulations to follow and to keep in mind.

Almost all minors are subject to California's child labor protections. Under the California Labor Code, "minor" is defined as any person under the age of 18 years required to attend school under the provisions of the Education Code. Minors who are no longer attending school are subject to California's compulsory education laws, and thus are subject to all state child labor law requirements. Emancipated minors, while subject to all of California's child labor laws, may apply for a work permit without their parents' permission.

The following is an overview of some of the rules and restrictions on child employment:

**Work Permit Requirement** - All minors employed in the state of California must have a permit to work. Employers must have a Permit to Employ and Work on file and available for inspection by school and labor officials at all times. Permits are always required, even when school is not in session. Child labor laws do not generally apply to minors who deliver newspapers or work at odd jobs, such as yard work and babysitting, or in private homes where the minor is not regularly employed.

**Minimum Wage** - Minors must be paid at least the minimum wage and applicable overtime rates established by the California Industrial Welfare Commission. Minors employed by parents or guardians are exempt from state and federal minimum wage and overtime pay requirements.

*Work permits are always required, even when school is not in session.*



*Minors are prohibited from performing dangerous tasks, such as washing upper story windows, using ladders or scaffolding, and operating most power-driven machinery. Minors cannot be employed for the purpose of driving a motor vehicle on public highways and streets. This includes delivering any type of goods from a vehicle.*

**Allowable Scheduled Hours** – There are limitations for allowable hours an employer is able to schedule minors based on the age of the child.

- Labor laws generally prohibit nonfarm employment of children younger than 14. Special rules apply to agricultural work, domestic work and the entertainment industry.
- Minors between the ages of 14-15 are only allowed to work a maximum of 3 hours during school days. The hours increase to 8 hours on non-school days. Work must be performed no earlier than 7 a.m. and no later than 7 p.m. any day of the week. From June 1 to Labor Day, work hours may be extended to 9 p.m.

Students in Work Experience Education and career exploration programs may work up to 23 hours per week. When school is not in session, this amount is increased to a daily maximum of 8 hours and weekly maximum of 40 hours.

- Minors between the ages of 16-17 are only allowed to work a maximum of 4 hours from Monday through Thursday. The maximum allowable amount is increased to 8 hours on any non-school day or on any day that precedes a non-school day. This age group may be permitted to work up to 48 hours per week. Work must be performed no earlier than 5 a.m. or later than 10 p.m.; however, work may extend to 12:30 a.m. on nights preceding non-school days with specified written permission.

Students in Work Experience Education or cooperative vocational education programs may be permitted to work a maximum of 8 hours on a school day. When school is not in session the minor may work up to 48 hours per week, but no more than 8 hours in any one day.

#### **Job Restrictions:**

- Minors younger than 16 years are allowed to work only in limited, specified occupations that exclude baking, manufacturing, processing, construction, warehouse, and transportation occupations.
- Hazardous Occupations – Both state and federal law prohibit minors from working in certain hazardous occupations. According to the U.S. Department of Labor, minors may work a variety of jobs, including those generally located in offices, grocery and retail stores, restaurants, movie theaters, and baseball parks. However, minors are prohibited from performing dangerous tasks, such as washing upper story windows, using ladders or scaffolding, and operating most power-driven machinery. Minors cannot be employed for the purpose of driving a motor vehicle on public highways and streets. This includes delivering any type of goods from a vehicle. Employees, who are 16 years old, may not be asked to drive as any part of their work duties.

**Hiring Family Members** – Parent or guardian employers who employ a child for the purpose of working in agriculture, horticulture, viticulture or domestic labor

are exempt from California child labor laws. However, children employed by their parents are not allowed to work during school hours.

Work performed by a child, under the age of 18, for parents or guardians is exempt from FICA if the parents are sole owners or sole partners.

Work performed by a child, under the age of 21, for parents or guardians is exempt from FUTA.

For additional information on employment of minors or to obtain work permit forms, visit the California Dept of Education website at <http://www.cde.ca.gov/>.

## Mileage Reimbursement Methods

Mileage incurred by an employee, who is meeting with customers or attending business meetings, is required to be reimbursed.

Under an accountable plan, an employer reimburses the employee for actual expenses. If a flat rate for expenses is used, this is considered a non-accountable plan.

### Accountable Plan

To qualify as an accountable plan, the following requirements must be met:

1. The reimbursements must be for expenses incurred in the course of performing services for the employer.
2. The employee must substantiate the amount, time, use and business purpose of the expenses.
3. If the employee was advanced funds to cover the expenses, the employee must be required to return any excess reimbursements over substantiated expenses within a reasonable period of time, generally within 120 days.

An employer can decide to reimburse employee mileage based on the standard mileage rate set each year by the IRS. The rate for 2009 is 55 cents per mile. Employees do not have to keep track of actual car expenses but need to keep written mileage records that show the time, place, use and business purpose for each car trip.

Reimbursements made under an accountable plan are a deductible business expense and are excluded from the employee's gross income.

### Non-Accountable Plan

If an employer elects to pay an employee a flat rate for expenses, this is considered a non-accountable plan.

If the expense reimbursements are made under a non-accountable plan, the employer must include the amount paid in the employee's wages on the W-2 Form. The employer and employee will then have to pay payroll taxes on the reimbursed amount.



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## Home Office Deduction

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Taxpayers, who use a portion of their home for business purposes, may be able to take a home office deduction if they meet certain requirements.

In order to claim a business deduction, you must use part of your home for one of the following two reasons:

1. Exclusively and regularly as either: your principal place of business, or as a location to meet with customers in the normal course of business. Where there is a separate structure not attached to your home, the regular and exclusive use does not need to be your principal place of business as long as the use is in connection with your trade or business.
2. On a regular basis for certain storage use—such as storing inventory or product samples, as rental property, or as a home daycare facility.

Generally, the amount you can deduct depends on the percentage of your home you use for business. Your deduction for certain expenses will be limited if your gross income from your business is less than your total business expenses.

If you use a separate structure not attached to your home for an exclusive and regular part of your business, you can deduct expenses related to it.

There are special rules for qualified daycare providers and for persons storing business inventory or product samples.

Different rules apply to claiming the home office deduction if you are an employee. For example, the regular and exclusive business use must be for the convenience of your employer.

It is important to have all supporting documentation for expenses written off as deductions on a tax return.

Please be aware if you have a home office and misuse the rules on home-office deductions, you may be denied not only that write-off, but all home-office deductions.



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## Revised I-9 Employment Eligibility Verification Form

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The U.S. Citizenship and Immigration Service has issued a new version of Form I-9, Employment Eligibility Verification Form. All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens.

On the back of the Form I-9 are three lists of acceptable documents for employment eligibility verification. List A includes those documents that establish both identity and work eligibility. List B documents are used to verify the identity of the individual. List C documents verify an individual's eligibility to work in the United States.

The following is a summary of the changes to the form:

**Documentation** - The biggest difference, between the new version and the previous version, is that all documents presented during the verification process must be current. Expired documents will no longer be accepted as an alternative.

**List A** – There have been several changes to the list of documents that establish the identity and eligibility of employees.

The following two documents have been added to List A:

1. A foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
2. A passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with a valid Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association between the U.S. and the FSM or RMI

The following three documents have been removed from List A:

1. Form I-688, Temporary Resident Card
2. Form I-688A, Employment Authorization Card
3. Form I-688B, Employment Authorization Card

**E-Verify Requirements** - E-Verify is a free Internet-based system operated by the Department of Homeland Security, in partnership with the Social Security Administration (SSA), which allows employers to electronically verify the employment eligibility of all of their newly hired employees.

Federal contractors and subcontractors will be required to begin using the E-Verify system starting June 30, 2009, to verify their employees' eligibility to legally work in the United States. The rule will only affect federal contractors who are awarded a new contract after June 30, 2009 that include the Federal Acquisition Regulation E-Verify Clause. Federal contractors may not use E-Verify to verify current employees until the rule becomes effective and they are awarded a contract that includes the Federal Acquisition Regulation E-Verify Clause.

The amended Executive Order reinforces the 1996 policy that the federal government does business with companies that have a legal workforce. This new rule requires all applicable federal contractors to agree to use E-Verify to confirm the employment eligibility of all persons hired during a contract term.

*All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States.*



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# New Sales Tax Rates Effective April 1, 2009

Effective April 1, 2009 the state sales and use tax rate increased by 1%. If you are in a city or county that has a voter approved local district tax rate increase effective April 1, 2009, your overall tax rate increase will be higher. This 1% rate increase will expire on July 1, 2011.

For all California sales and use tax rates by county or city you may visit the website [www.boe.ca.gov/cgi-bin/rates.cgi](http://www.boe.ca.gov/cgi-bin/rates.cgi).

## Local Area Sales Tax Rates

Fresno County	City of Clovis	Madera County	Merced County	Tulare County
8.975%	8.975%	8.750%	8.750%	8.750%

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AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 • SUMMER HELP & YOUTH •  
 MILEAGE REIMBURSEMENT METHODS • HOME OFFICE DEDUCTION • REVISED I-9 EMPLOYMENT  
 ELIGIBILITY VERIFICATION FORM • NEW SALES TAX RATES EFFECTIVE APRIL 1, 2009

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