

Addendum to NATP's 2009 The Essential 1040

1. Page 29: There is a note indicating there are no further definition of course materials in the Internal Revenue Code or the Committee Reports. While this is true, the IRS now has questions and answers on its website about the American opportunity credit. You can review them at: <http://www.irs.gov/newsroom/article/0,,id=211309,00.html>

With respect to defining course materials, the IRS has made this Q&A available:

Q4. What education expenses qualify for the American opportunity tax credit?

A. The term "qualified tuition and related expenses" has been expanded to include expenditures for "course materials." For this purpose, the term "course materials" means books, supplies and equipment needed for a course of study whether or not the materials are purchased from the educational institution as a condition of enrollment or attendance.

2. Page 51. The definition of a qualified plug-in electric drive motor vehicle for years **before 2010** means a motor vehicle:
 - o Which draws propulsion using a traction battery with at least 4 kilowatt hours of capacity;
 - o Uses an offboard source of energy to recharge such battery;
 - o In the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year; and
 - In the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle; and
 - In the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established;
 - o The original use of which commences with the taxpayer;

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- Is acquired for use or lease by the taxpayer and not for resale; and
- Is made by a manufacturer.

The term motor vehicle has the same meaning given under §30(c)(2). The terms passenger automobile, light truck, and manufacturer have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.). Traction battery capacity shall be measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

3. Page 52. The definition of a qualified plug-in electric drive motor vehicle for years **after 2009** means a motor vehicle:

- The original use of which commences with the taxpayer;
- Is acquired for use or lease by the taxpayer and not for resale;
- Is made by a manufacturer;
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act;
- Has a gross vehicle weight rating of less than 14,000 pounds; and
- Is propelled to a significant extent by an electric motor which draws electricity from a battery which, has a capacity of not less than 4 kilowatt hours, and is capable of being recharged from an external source of electricity.

The term motor vehicle means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels. The term manufacturer has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.). The term capacity means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

4. Page 54. After the enactment of the *Worker, Homeownership, and Business Assistance Act of 2009*, the note box should read:

→ Note: For wages paid after June 30, 2011, the FUTA tax rate imposed on every employer (not just household employers) is falling to 6.0%.

5. Page 77. The *Worker, Homeownership, and Business Assistance Act of 2009*, extended the enhanced NOL carryback provision created by the *American Recovery and Reinvestment Act of 2009*.

The election under §172(b)(1)(H) to carryback an applicable 2008 NOL from two years to either three, four, or five years is extended to include applicable 2009 NOLs. The new provision is available for most taxpayers, not just eligible small businesses.

- o Small businesses (corporations, partnerships, or sole proprietorships with gross receipts under \$15 million) that elected the extended carryback period in 2008 can also make an election for a 2009.
 - o Taxpayers who are not a small business can only elect the extended carryback period in either 2008 or 2009, not both years. An "applicable NOL" is a taxpayer's NOL for a tax year ending after December 31, 2007, and beginning before January 1, 2010.
 - o For taxpayers electing to use a five-year carryback period for an applicable NOL, the amount that can be carried back to the fifth tax year preceding the loss year cannot exceed 50% of the taxpayer's taxable income for such preceding tax year, computed without regard to the NOL for the loss year or any tax year thereafter. This 50% limitation rule does not apply to a small business that elected the extended carryback period for an applicable 2008 NOL even if the election is made after November 6, 2009, but it does apply to applicable 2009 NOL carrybacks of electing small businesses.
 - o Taxpayers that qualify for the extended carryback period for applicable NOLs must make an affirmative election to use the longer carryback period. The election must be made by the due date, including extensions, for filing the return for the taxpayer's last tax year beginning in 2009. Once an election is made, it cannot be revoked.
6. Page 89. The *Worker, Homeownership, and Business Assistance Act of 2009*, extended the first-time homebuyer credit.

Effective for Purchases after November 6, 2009

The \$8,000 credit is extended for purchases made before May 1, 2010. For this purpose, a first-time homebuyer is a taxpayer (and, if

married, the spouse of the taxpayer) who has not owned a principal residence at any time during the previous three years.

For qualifying taxpayers, the credit also applies to purchases before July 1, 2010, provided the taxpayer has entered into a written binding contract to close on the purchase before May 1, 2010. Effectively, this provision allows taxpayers an additional two months to close.

Higher Income Limitations

The first-time home homebuyer credit phases out for taxpayers with a modified adjusted gross income between \$125,000 and \$145,000 (\$225,000 and \$245,000 for joint filers) for the year of purchase.

Home Price Limitation

No credit is allowed if the purchase price of the home exceeds \$800,000.

Existing Homeowners

A taxpayer is eligible for a credit up to \$6,500 (\$3,250 if separate returns are filed) provided the taxpayer (and if married, the taxpayer's spouse) has owned the same principal residence for any five consecutive years during the eight-year period ending on the date of purchase.

Age Limitation

No credit is allowed unless the taxpayer has attained age 18 as of the date of purchase, unless the taxpayer is married and his or her spouse is age 18 or older.

Dependents

No credit is allowed if the taxpayer is claimed as a dependent on another taxpayer's return for the tax year of purchase.

Closing Statement

No credit is allowed unless the taxpayer attaches a properly executed copy of the settlement statement that is used to complete the purchase to his or her 2009 return.

NOTE: This means that the closing statement is required to be attached to the return for any qualifying new home purchase made during calendar year 2009, where the credit is claimed on the 2009

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return. It does not appear that closing statements need to be attached to amended 2008 returns.

Related Party Definition

The definition of related party now includes persons related to the taxpayer's spouse. For example, a taxpayer cannot purchase a residence from the parents, grandparents, or children of his or her spouse and qualify for the credit.

First-time Homebuyer Rules for Military

The recapture provisions are waived for qualified military personnel, and others, who claimed the first-time homebuyer credit and either sold the home or stopped using it as a principal residence after December 31, 2008, in connection with government orders received by the taxpayer (or spouse) for qualified official extended duty service.

The recapture rules that generally apply when the credit is claimed for purchases made during 2008 do not apply in the year of sale or cessation of use, or any subsequent tax year. The accelerated recapture rules for homes purchased in 2009 do not apply.

The credit is extended until April 30, 2011, (June 30, 2011, under a written binding contract) for qualified personnel who are on official extended duty outside the United States. These changes are effective for homes purchased after November 30, 2009.

Qualified personnel include members of the uniformed armed services, members of the Foreign Service of the United States, and employees of the intelligence community who are on official extended duty.

Extended duty is a period of at least 90 days. The extended duty must be served outside the United States.

Remember all these provisions are effective for Purchases after November 6, 2009.

7. Page 284: Review question #21 has two correct answers, A and B. B should say:

B. **Correct.** Cards issued by the Social Security Administration that say "Valid for work only with INS authorization" are allowable TINs for EITC purposes.