



How Washington Affects You?

It seems like every couple of days our newly appointed Treasury Secretary, Timothy Geithner, is announcing a new bailout plan to foster the recovery for a distressed U.S. company that has fallen on hard economic times, or he is touting new plans or programs designed to jump-start our ailing economy. These new programs and changes are coming our way at a pace not seen since the days of our 32nd President, Franklin D. Roosevelt, during the implementation of policies and procedures to combat The Great Depression. As a funeral home owner or manager, do you ever stop to think about how all of these policies affect the economic health of your business? If the truth be known, the vast majority of funeral directors are too busy managing their funeral homes to understand the changes that are being implemented in Washington. Unfortunately, if a business owner does not take the time to understand and analyze these changes, opportunities and benefits could be lost.

When you think about the United States Department of the Treasury, chances are the first thought that pops into your head is income taxes, which the Treasury is responsible for collecting. However, the duties of the Treasury are far more reaching and include the following: managing federal finances; paying the U.S. bills; printing money; managing public debt; supervising our national banks; advising on domestic and international financial, monetary, and economic trade and tax policies; enforcing federal finance and tax laws; investigating and prosecuting tax evaders, counterfeiters, and forgers. The point here is to underscore the fact that, due to the global recession, which most economists would say started last fall, and due in part to the tumult in the housing market and banking system, the Treasury has been very busy. For the history enthusiasts, the 1789 Act of Congress established the United States Department of the Treasury and the first Secretary was Alexander Hamilton of New York, who served from September 11, 1789, to January 31, 1795.

In addition to the Treasury being busy tending to financial and monetary policies, Congress has been just as busy in their efforts to rejuvenate the economy by passing into law new tax provisions and stimulus packages. Most recently passed and signed into law by President Obama is the American Recovery and Reinvestment Act of 2009. This piece of legislation offers rebates and business incentives that are aimed at moving the economy in the proper direction. Given the volume of pages in this Act and recent legislation, this article is intended to provide you with a basic awareness and overview of these new laws, as opposed to being an authoritative research guide. This article will highlight some specific changes and discuss the potential impact on you as both an individual and a funeral home owner

or manager. As a funeral home owner and someone who has dreams of achieving financial independence, it is incumbent upon you to take advantage of every opportunity to not only survive during these tough times, but to prosper.

Bonus Depreciation for Qualifying Assets

Bonus depreciation has been extended through 2009 for most types of new depreciable property in an attempt to encourage small businesses to invest. Typically, the costs of most capital assets are written off for tax purposes over several years through depreciation using the IRS-determined useful life for that particular asset. Bonus depreciation allows businesses to accelerate this write-off for tax purposes in the first year. With the 2009 Act, funeral homes can expense an additional 50% of the cost of a capital asset in the first year for qualifying property purchased and placed in service during 2009. These qualifying assets include furniture, fixtures, equipment, qualified leasehold improvements and certain automobiles. Hearses and limousines are eligible for the bonus depreciation. Other funeral home vehicles might be eligible, depending upon their actual use. As a general guide, this bonus depreciation is available for most new property other than buildings. It is important to highlight that it does not include used property. For example, assume ABC Funeral Home has a calendar year end. On April 30, 2009, ABC Funeral Home purchases \$100,000 of furniture and equipment, and on July 15, 2009, they purchase a new hearse for \$70,000. The total allowed depreciation for these items for 2009 is \$102,000. Total qualifying assets ($\$170,000 \times 50\% = \$85,000$) plus remaining assets (Total qualifying assets $\$170,000 - \text{bonus } \$85,000 \times 20\% = \$102,000$). An important positive attribute of the bonus depreciation is that there is no alternative minimum tax (AMT) adjustment caused by taking the bonus depreciation. On the negative side, many states are not permitting the full federal depreciation deduction.

Expensing Qualifying Assets

Under Code Sec. 179, a funeral home business can expense, rather than depreciate over time, up to \$250,000 of the cost of qualifying assets placed in service during 2009. There is a reduction in the amount of the total allowable deduction taken under §179 if a funeral home's total qualifying assets purchased in 2009 exceed \$800,000. This provision is an extension of the 2008 Stimulus Act which originally increased the cap up from \$125,000 and the phase-out threshold hold up from \$500,000. The qualifying funeral home assets under this section are similar to those that qualify for bonus depreciation - furniture, fixtures, equipment, hearses, and limousines. The qualifying assets can be new or used. The expensing under Code Sec 179 can be on the same assets where the bonus depreciation is also

claimed. For planning purposes, it is important to note that unless there is further legislation, the \$250,000 amount will revert back to \$125,000 in 2010.

Required Estimated Taxes for Individuals with Small Businesses is Eased

For qualifying funeral home owners, the amount of quarterly estimated taxes that must be paid in order to avoid penalties and interest is reduced for tax years beginning in 2009 for certain individuals with business income. This provision allows an individual to avoid penalties and interest on any underpaid taxes if their estimates were based on either 90% of their 2008's total taxes (former provision was 100% of prior year) or 90% of their 2009's taxes. To be eligible, at least 50% of the gross income that was reported on the funeral director's tax return must be income from a small trade or business. There is also an income limit. A married funeral director, filing jointly, will be ineligible for the 90% rule if his/her adjusted gross income for the preceding year is greater than \$500,000. This limited relief is particularly relevant for funeral homes that operate as S corporations, sole proprietorships, single member LLCs, and partnerships because the business earnings from these entities are passed through to the owner(s) and taxed on their individual income tax returns. For example, a calendar year qualifying taxpayer with \$24,000 of tax shown on their 2008 return, will pay four estimated payments of \$5,400 each on/or before the due dates of April 15, 2009, June 15, 2009, September 15, 2009, and January 15, 2010..

S Corporation Built-in Gain Holding Period Temporarily Decreased to 7 Years

The 2009 Recovery Act reduced the holding period requirement from 10 to 7 years for which S corporations, that were formerly C corporations, are required to recognize certain gains on the sale of assets that it has owned since the time of its S-election. This change will allow funeral directors who elected S status in 2002 to avoid paying taxes on any built-in gain assets sold in 2009. It is important to note that this law is temporary and does not change the normal determination of taxes paid on any assets sold.

\$8,000 Credit for First-time Homebuyers

In an effort to ease the slumping real estate market, the Recovery Act provides an \$8,000 tax credit for first-time home buyers who use the home as their principal residence. For homes purchased after December 31, 2008, the taxpayer is not required to repay the credit providing the home remains the taxpayer's principal residence for 36 months from the date of purchase. The Act also permits eligible taxpayers to elect to treat a 2009 purchase as if it occurred on December 31, 2008, provided the purchase occurs before July 1, 2009. This allows the taxpayer to amend his/her 2008 tax return and receive the \$8,000 credit in 2009 with the filing of the 2008 return. Otherwise, the taxpayer would not receive the credit until filing their 2009 tax return. It is important to point out that the \$8,000 is a credit, which means this amount will be refunded to the taxpayer even in a year in which the taxpayer did not pay

taxes. In the event that a taxpayer owes the IRS for past taxes, the \$8,000 will be used to reduce the past-due amount first.

Small Business Administration (SBA) Lending Requirements Eased

In an effort to get lending back on track, the American Recovery and Reinvestment Act of 2009 addresses ways to make credit more readily available to small businesses and entrepreneurs. In summary, the Act increases the percentage that the government will guarantee for SBA loans and reduces the fees for certain SBA loans. As of March 31, 2009, the Treasury Department is authorized to purchase securities that are backed by the guaranteed portion of the SBA's 7(a) loans (the most basic SBA loans, whereby loans are provided by lenders and the SBA guarantees repayment of a portion of the loan to the lender). This applies to loans that were packaged on or after July 1, 2008. This move, directly purchasing the loans, will serve to free-up funds that local and national lending institutions will have available to lend. In addition, the Treasury is authorized to purchase new securities backed by the guaranteed portions of the 7(a) loans. The Treasury is also poised to provide similar measures for SBA's 504 program. The SBA's 504 program involves government-backed loans with loans made by private sector lenders. So what does this mean for the funeral industry? In the simplest terms, it means that funds will be more readily available for acquisitions, refinancing or expansions. The availability of credit has a direct impact on the value of funeral homes. It is also important to note that interest rates are at all-time lows, which should encourage funeral directors to review the terms of their current loans.

As a funeral director reading this article, it is important to understand that the funeral profession is directly affected by what happens in Washington. Changes in tax laws and other governmental policies are coming your way at an unprecedented rate. These new laws and policies are not only affecting you, but also the families that you serve. It is impossible to keep current with all of the changes, but it is incumbent upon you to be aware of the ones that are mostly likely to impact you as a business person. Remember, the United States, although a major economic force, is only part of the global economy, and the funeral profession is only part of the U.S economy.

Again, the purpose of this article is to provide you with a very broad overview of certain changes that have been recently enacted. There is more legislation in the pipeline, like a possible tax credit for small businesses who replace older less fuel-efficient automobiles. So, it is important for you to keep the communication lines open with your tax planner. The information presented in this article is not intended to provide authoritative information for the purpose of tax planning. **FBA**

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