

## Part III

### Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Tax forms and instructions.  
(Also: Part I, §§ 24, 25A, 32, 132, and 179)

Rev. Proc. 2009-21

#### SECTION 1. PURPOSE

This revenue procedure modifies and supersedes section 3.04 of Rev. Proc. 2007-66, 2007-45 I.R.B. 970, to reflect a statutory amendment by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Div. C of Pub. L. No. 110-343, 122 Stat. 3765 (2008) (TEAMTRA). This revenue procedure also modifies and supersedes sections 3.04, 3.05, 3.06(1), 3.12, and 3.20 of Rev. Proc. 2008-66, 2008-45 I.R.B. 1107, to reflect statutory amendments by the American Recovery and Reinvestment Tax Act of 2009, Tit. I of Div. B of Pub. L. No. 111-5, 123 Stat. 115 (2009) (ARRTA).

#### SECTION 2. BACKGROUND

.01 Section 501(a) of TEAMTRA added § 24(d)(4) of the Code to provide a temporary increase in the refundable portion of the child tax credit for taxable years beginning in

2008. Under § 24(d)(1)(B)(i), the amount that may be refundable is determined using a value that is adjusted annually for inflation. For taxable years beginning in 2008, § 24(d)(4) provided that \$8,500 is the value used in § 24(d)(1)(B)(i) instead of the inflation adjusted value.

.02 Section 1003 of ARRTA amended § 24(d)(4) of the Code to provide a temporary increase in the refundable portion of the child tax credit for taxable years beginning in 2009 or 2010. Under § 24(d)(1)(B)(i), the amount that may be refundable is determined using a value that is adjusted annually for inflation. For taxable years beginning in 2009 or 2010, § 24(d)(4) provides that \$3,000 is the value used in § 24(d)(1)(B)(i) instead of the inflation adjusted value.

.03 Section 1004 of ARRTA added new § 25A(i) to the Code (the American Opportunity Tax Credit) to provide temporary increases in the amount of the Hope Scholarship Credit and the threshold phaseout amounts for the credit. Section 25A(i)(1) provides that, for taxable years beginning in 2009 or 2010, the Hope Scholarship Credit is equal to 100 percent of the amount of qualified tuition and related expenses not in excess of \$2,000 plus 25 percent of those expenses in excess of \$2,000, but not in excess of \$4,000. Section 25A(i)(4) provides that, for taxable years beginning in 2009 or 2010, the amount of the Hope Scholarship Credit begins to phase out for taxpayers whose modified adjusted gross income exceeds \$80,000 (\$160,000 for married taxpayers filing a joint return). The credit is completely phased out at \$90,000 (\$180,000 for married taxpayers filing a joint return).

.04 Section 1002 of ARRTA added § 32(b)(3) to the Code to provide a temporary

increase in the earned income credit for certain taxpayers. Under § 32(b)(3)(A), for taxable years beginning in 2009 or 2010, the maximum amount of the earned income credit for taxpayers with three or more qualifying children is 45 percent of the earned income amount for the taxable year. For taxable years beginning in 2009, under § 32(b)(3)(B)(i) the amount added to the threshold phaseout amounts and the completed phaseout amounts for married taxpayers filing a joint return is \$5,000. For taxable years beginning in 2010, the \$5,000 amount under § 32(b)(3)(B)(i) is adjusted for inflation.

.05 Section 1151 of ARRTA amended § 132(f)(2) of the Code to provide a temporary increase in the amount excludable from gross income for certain employer provided transportation fringe benefits. For months beginning after February 17, 2009, and before January 1, 2011, the monthly limitation under § 132(f)(2)(A) for transportation in a commuter highway vehicle and any transit pass is the same as the amount in effect under § 132(f)(2)(B) for qualified parking, which is \$230 per month for 2009.

.06 Section 1202 of ARRTA amended § 179(b)(7) of the Code to extend the 2008 dollar limitations under §§ 179(b)(1) and (2) to 2009 taxable years. For taxable years beginning in 2009, § 179(b)(1) provides that a taxpayer may elect to expense up to \$250,000 of § 179 property placed in service during that year. Under § 179(b)(2), the \$250,000 amount in § 179(b)(1) is reduced by the amount by which the cost of § 179 property placed in service during that year exceeds \$800,000.

### SECTION 3. MODIFICATION OF REV. PROC. 2007-66

To reflect the statutory amendment made by TEAMTRA to § 24, section 3.04 of

Rev. Proc. 2007-66 is modified to read as follows:

.04 *Child Tax Credit.* For taxable years beginning in 2008, the value used in § 24(d)(1)(B)(i) to determine the amount of credit under § 24 that may be refundable is \$8,500.

#### SECTION 4. MODIFICATION OF REV. PROC. 2008-66

To reflect the statutory amendments made by ARRTA to §§ 24, 25A, 32, 132, and 179, sections 3.04, 3.05, 3.06(1), 3.12, and 3.20 of Rev. Proc. 2008-66 are modified to read as follows:

.04 *Child Tax Credit.* For taxable years beginning in 2009, the value used in § 24(d)(1)(B)(i) to determine the amount of credit under § 24 that may be refundable is \$3,000.

#### .05 *Hope and Lifetime Learning Credits.*

(1) For taxable years beginning in 2009, the Hope Scholarship Credit under § 25A(b)(1) is an amount equal to 100 percent of qualified tuition and related expenses not in excess of \$2,000 plus 25 percent of those expenses in excess of \$2,000, but not in excess of \$4,000. Accordingly, the maximum Hope Scholarship Credit allowable under § 25A(b)(1) for taxable years beginning in 2009 is \$2,500.

(2) For taxable years beginning in 2009, a taxpayer's modified adjusted gross income in excess of \$80,000 (\$160,000 for a joint return) is used to determine the reduction under § 25A(d)(2)(A)(ii) in the amount of the Hope Scholarship Credit otherwise allowable under § 25A(a)(1). For taxable years

beginning in 2009, a taxpayer's modified adjusted gross income in excess of \$50,000 (\$100,000 for a joint return) is used to determine the reduction under § 25A(d)(2)(A)(ii) in the amount of the Lifetime Learning Credit otherwise allowable under § 25A(a)(2).

*.06 Earned Income Credit.*

(1) In general. For taxable years beginning in 2009, the following amounts are used to determine the earned income credit under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) at or above which no credit is allowed. The threshold phaseout amounts and the completed phaseout amounts shown in the table below for married taxpayers filing a joint return include the \$5,000 increase provided in § 32(b)(3)(B)(i) for taxable years beginning in 2009.

<u>Item</u>	<u>Number of Qualifying Children</u>			
	<u>One</u>	<u>Two</u>	<u>Three or More</u>	<u>None</u>
Earned Income Amount	\$8,950	\$12,570	\$12,570	\$5,970
Maximum Amount of Credit	\$3,043	\$5,028	\$5,657	\$457
Threshold Phaseout Amount (Single,	\$16,420	\$16,420	\$16,420	\$7,470

Surviving Spouse, or Head of Household)				
Completed Phaseout Amount (Single, Surviving Spouse, or Head of Household)	\$35,463	\$40,295	\$43,279	\$13,440
Threshold Phaseout Amount (Married Filing Jointly)	\$21,420	\$21,420	\$21,420	\$12,470
Completed Phaseout Amount (Married Filing Jointly)	\$40,463	\$45,295	\$48,279	\$18,440

The instructions for the Form 1040 series provide tables showing the amount of the earned income credit for each type of taxpayer.

.12 *Qualified Transportation Fringe.* For taxable years beginning in 2009, the monthly limitation under § 132(f)(2)(A) for months beginning after February 17, 2009, regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass, and under § 132(f)(2)(B), regarding the fringe benefit exclusion amount for qualified parking, is \$230. For January and February 2009, the monthly limitation under § 132(f)(2)(A) is \$120 and the monthly limitation under § 132(f)(2)(B) is \$230.

.20 *Election to Expense Certain Depreciable Assets.* For taxable years beginning in 2009, under § 179(b)(1) the aggregate cost of any § 179 property a taxpayer may elect to treat as an expense cannot exceed \$250,000. Under § 179(b)(2) the \$250,000 limitation is reduced (but not below zero) by the amount by which the cost of § 179 property placed in service during the 2009 taxable

year exceeds \$800,000.

#### SECTION 5. EFFECT ON OTHER DOCUMENTS

Section 3.04 of Rev. Proc. 2007-66 and sections 3.04, 3.05, 3.06(1), 3.12 and 3.20 of Rev. Proc. 2008-66 are modified and superseded.

#### SECTION 6. EFFECTIVE DATE

Section 3.04 of Rev. Proc. 2007-66 is modified and superseded effective for taxable years beginning in 2008. Sections 3.04, 3.05., 3.06(1), 3.12, and 3.20 of Rev. Proc. 2008-66 are modified and superseded effective for taxable years beginning in 2009.

#### SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Christina M. Glendening of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure contact Ms. Glendening on (202) 622-4920 (not a toll free call).