



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

September 22, 2009

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CONEX-138092-09

36A.00-00

The Honorable Amy Klobuchar  
United States Senate  
Washington, DC 20510

Dear Senator Klobuchar:

I am responding to your letter of August 5, 2009, on behalf of your constituent, . He wrote about the effect of the Making Work Pay tax credit on his employees' annual withholding for 2009.

As you requested, I responded directly to . I am enclosing a copy of my response.

I hope this information is helpful. If you need further assistance, please call me or at

Sincerely,

Michael J. Montemurro  
Chief, Branch 4  
Office of Associate Chief Counsel  
(Income Tax & Accounting)

Enclosure



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Dear :

Senator Klobuchar has asked me to reply to your August 5, 2009, e-mail to her about a recent change in federal tax withholding rates. You asked whether the income tax rates dropped or merely the withholding rates. You are concerned that the reduced withholding will reduce your employees' refunds or increase the tax they will owe when filing their 2009 tax returns.

Taxpayers with earned income in 2009 and 2010 may be eligible for the Making Work Pay credit in those years (section 36A of the Internal Revenue Code). The credit is the lesser of 6.2 percent of earned income or \$400 for individuals (\$800 for married couples filing jointly). The credit provides a dollar-for-dollar credit against an eligible taxpayer's federal income tax and results in a payment to the taxpayer if the credit exceeds the taxpayer's income tax liability. The credit begins phasing out for taxpayers with modified adjusted gross income over \$75,000 per year for individuals (\$150,000 for married couples filing jointly).

In February 2009, the Internal Revenue Service issued revised withholding tables to reflect the Making Work Pay Credit. Workers will get the benefit of the reduced withholding to reflect the anticipated credit without any action on their part. Some taxpayers, however, may find that the changes built into the withholding tables result in less tax withheld than they prefer. Also, if an individual ultimately is not eligible for the Making Work Pay credit, the withholding changes may mean a smaller refund next spring. Some taxpayers, including those who usually receive very small refunds, could owe a small amount rather than receive a refund.

Your employees may want to consult the IRS withholding calculator on [www.irs.gov](http://www.irs.gov) and submit revised Forms W-4, *Employee's Withholding Allowance Certificate*, to ensure enough tax withholding to cover their expected tax liability, including whether they anticipate being eligible to claim the Making Work Pay credit on their income tax returns. The enclosed Publication 919, *How Do I Adjust My Tax Withholding?*, provides

additional guidance for tax withholding. Married couples with two incomes and individuals with multiple jobs should pay particular attention to their withholding.

If your employees are eligible for the Making Work Pay credit, they must claim it on their 2009 federal income tax return that they file in 2010, even if their withholding was reduced to reflect the credit.

I hope this information is helpful. Please call \_\_\_\_\_, identification number \_\_\_\_\_, at \_\_\_\_\_ if you have any questions.

Sincerely,

Michael J. Montemurro  
Chief, Branch 4  
Office of Associate Chief Counsel  
(Income Tax & Accounting)