



The Montgomery Bar Association held its annual Law Day celebration at the Montgomery County Courthouse on Thursday, April 30, 2009. We are pleased to announce that at the event, our Managing Partner, **Steven H. Lupin**, was presented with the **Henry Stuckert Miller Public Service Award**, an award given to a member of the Bar Association in recognition of extraordinary service to the legal community.

SUMMARY OF 2009 ECONOMIC STIMULUS ACT

By Jonathan Samel

The recently enacted "American Recovery and Reinvestment Act of 2009" (the 2009 economic stimulus act) contains a wide-ranging tax package that includes tax relief for low and moderate-income wage earners, individuals and families with college expenses, and home and car purchasers, including the following provisions:

"Making Work Pay" credit. The new law provides an individual tax credit in the amount of 6.2 percent of earned income not to exceed \$400 for single returns and \$800 for joint returns in 2009 and 2010. The credit is phased out at adjusted gross income (AGI) in excess of \$75,000 (\$150,000 for married couples filing jointly). The credit can be claimed as a reduction in the amount of income tax that is withheld from a paycheck, or through a credit on a tax return. Under the credit, workers can expect to see perhaps \$13 a week less withheld from their paychecks starting around June. Next year, the extra take-home pay will go down to around \$9 per week.

Economic recovery payment. The new law provides for a one-time payment of \$250 to retirees, disabled individuals and Social Security beneficiaries and SSI recipients receiving benefits from the Social Security Administration and Railroad Retirement beneficiaries, and to veterans receiving disability

compensation and pension benefits from the U.S. Department of Veterans' Affairs.

Refundable credit for certain federal and state pensioners. The new law provides a one-time refundable tax credit of \$250 in 2009 to certain government retirees who are not eligible for Social Security benefits.

Unemployment compensation exclusion. A provision temporarily suspends federal income tax on the first \$2,400 of unemployment benefits received by a recipient in 2009.

Expanded and revised higher education tax credit. The new law creates a \$2,500 higher education tax credit that is available for the first four years of college. The credit is based on 100% of the first \$2,000 of tuition and related expenses (including books) paid during the tax year and 25% of the next

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SUPER LAWYERS

We have FOUR!!!

"Super Lawyers" names Pennsylvania's top lawyers as chosen by their peers and through the independent research of Law & Politics. 2009 Pennsylvania Super Lawyers is based on surveys of the more than 36,000 lawyers across the state who have been licensed for five years or more. It is with great pride that we announce that four of our attorneys were named *Super Lawyers for 2009*.

LEFT TO RIGHT:

Robert E. Slota (awarded for Personal Injury – Medical Malpractice); **J. Edmund Mullin** (Land Use/Zoning); **Steven H. Lupin** (Business Litigation); and **Edward Rubin** (Personal Injury – Products).



2009 Economic Stimulus Act... continued from page 1

\$2,000 of tuition and related expenses paid during the tax year, subject to a phase-out for AGI in excess of \$80,000 (\$160,000 for married couples filing jointly). Forty percent of the credit is refundable. The new credit temporarily replaces the Hope credit.

Computers as an education expense. A provision permits computers and computer technology to qualify as qualified education expenses in 529 education plans for tax years beginning in 2009 and 2010.

Expanded first-time credit for first-time home buyers. Last year, Congress provided taxpayers with a refundable tax credit that was equivalent to an interest-free loan equal to 10% of the purchase of a home (up to \$75,000) by first-time home buyers. The provision applied to homes purchased on or after April 9, 2008 and before July 1, 2009. Taxpayers receiving this tax credit were required to repay any amount received under this provision back to the government over 15 years in equal installments (or earlier if the home was sold). The credit phases out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 in the case of a joint return). The new law enhances the credit by eliminating the repayment obligation for taxpayers that purchase homes on or after January 1, 2009. It also extends the credit through the end of November 2009, and bumps up the maximum value of the credit from \$7,500 to \$8,000.

Tax break for new car purchasers. The new law allows taxpayers to deduct State and local sales taxes paid on the purchase of a new automobile, including light trucks, SUVs, motorcycles, and motor homes. The tax break phases out starting with taxpayers earning \$125,000 per year (\$250,000 for joint returns). The deduction is allowed to both those who itemize their deductions as well as to non-itemizers. However, the deduction cannot be taken by a taxpayer who elects to deduct State and local sales taxes in lieu of State and local income taxes.

Alternative minimum tax (AMT) patch. To hold the number of taxpayers subject to the AMT at bay, the new law increases the AMT exemption amounts for 2009 to \$46,700 for individuals and \$70,950 for joint returns, and allows the personal credits against the AMT.

The following are some of the provisions of the 2009 economic stimulus act that relate to closely held businesses:

Extension of bonus depreciation. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write off 50% of the cost of depreciable property acquired in 2008 for use in the United

States. The new law extends this temporary benefit for qualifying property purchased and placed into service in 2009.

Extension of enhanced small business expensing (Section 179). In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write off the cost of these expense in the year of acquisition in lieu of recovering these costs over time through depreciation. Last year, Congress temporarily increased the amount that small businesses could write off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. The new law extends these temporary increases for capital expenditures incurred in 2009.

Expanded loss carryback of net operating losses for small businesses. Under pre-Act law, net operating losses (NOLs) may be carried back to the two years before the year that the loss arises and carried forward to each of the succeeding twenty years after the year that the loss arises. For 2008, the new law extends the maximum NOL carryback period from two years to five years for small businesses with gross receipts of \$15 million or less.

Incentives to hire unemployed veterans and disconnected youth. Businesses are allowed to claim a work opportunity tax credit equal to 40% of the first \$6,000 of wages paid to employees of one of nine targeted groups. The new law expands the work opportunity tax credit to include two new targeted groups: (1) unemployed veterans; and (2) disconnected youth. Individuals qualify as unemployed veterans if they were discharged or released from active duty from the Armed Forces during 2008, 2009 or 2010 and received unemployment compensation for more than four weeks during the year before being hired. Individuals qualify as disconnected youths if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

S corp holding period. The new law temporarily shortens the holding period of assets subject to the built-in gains tax from ten years to seven years.

The 2009 economic stimulus act also includes a package of tax incentives to encourage investments in renewable energy projects or more-efficient technologies, including the following:

Long-term extension and modification of renewable energy production tax credit. The new legislation extends the placed-in-service date for wind facilities for three years (through December 31, 2012). It also extends the placed-in-service date through December 31, 2013 for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities.

Temporary election to claim the investment tax credit in lieu of the production tax credit. Facilities that produce electricity from solar facilities are eligible to take a 30% investment tax credit in the year the facility is placed in service. Facilities that produce electricity



Identity Theft

By Anne-Laure Eliasson

The recent increase in concern over identity theft is well-founded as surveys are uncovering that identity theft related incidents are on the rise. While many believe that the majority of such incidents occur through computer related credit-card transactions or by the careless handling of receipts, this is no longer necessarily true. Rather, reports are finding that the greatest threat of identity theft is in the workplace.

Although not a setting where most would consider the disclosure of their personal information to be at risk, the workplace is a frequent and favorite target for identity thieves. This is due largely in part to the potential ability to access several individuals' information in one location. Loosely guarded personnel files and laptop computers which contain employees' personal information make the workplace even more appealing to the identity thief who is usually an employee him or herself or has easy access to the employer's personnel files.

To reduce the risk of employees falling prey to identity theft, employers should take precautions in securing their employees' information. Although the most effective measurement would be to eliminate the need and use of an individual's social security number altogether, this may be difficult to do. However, if having an employee's social security number is not essential to their hiring or job title, the employer should not request it. Any sensitive information that the employer is required to have should be stored in a secure locked area, accessible only by one or two designated individuals. Employers should also take care to ensure that all computers in the workplace are equipped with up to date anti-virus, anti-spyware and firewall software. Additionally, any wireless networks should be protected with the necessary security settings and any records which travel across public networks should be encrypted. Employers should also take measures to reduce the public display and transmission of their employees' social security numbers on items such as their pay check and work-identification badge. In the event that an employee's personal information does need to be displayed, great precaution should be taken to dispose of such information by shredding it. In adopting these practices, employers can help assure their employees that their personal information is secure.

from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit, payable over a ten-year period. The Act provides a temporary election to claim the investment tax credit in lieu of the production tax credit.

Business energy credit. The new law enhances the business energy credit by eliminating the cap on small wind property and repealing the basis reduction requirement for subsidized energy financing.

Energy-efficient existing homes. The new law extends the tax credits for improvements to energy-efficient existing homes through 2010. For 2009 and 2010, the amount of the tax credit is increased from 10% to 30% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the tax year. The property-by-property dollar caps on the tax credit are also eliminated, and an aggregate \$1,500 cap applies to all property qualifying for the credit.

Residential energy property. The new law removes the dollar limitations on certain energy credits, e.g., for qualified small wind energy property (\$4,000 cap); for qualified solar water heating property (\$2,000 cap); and qualified geothermal heat pumps (\$2,000).

Tax credits for alternative fuel pumps. The new law provides an increase for 2009 and 2010 in the 30% alternative refueling property credit for businesses (capped at \$30,000) to 50% (capped at \$50,000).

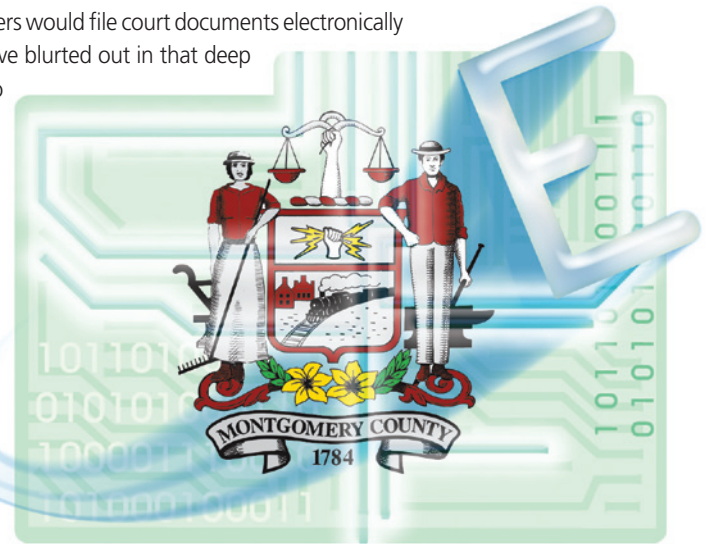
Credit for investment in advanced energy facilities. The new law establishes a new manufacturing investment tax credit for investment in advanced energy facilities, such as facilities that manufacture components for the production of renewable energy, advanced battery technology, and other innovative next-generation green technologies.

Vehicles. The new law provides a tax credit for purchases of plug-in electric drive vehicles ranging from \$2,500 to \$7,500 depending on battery capacity. The new law also restores and updates the electric vehicle credit for plug-in electric vehicles that would not otherwise qualify for the larger plug-in electric drive vehicle credit and provides a tax credit for plug-in electric drive conversion kits.

More funding for bonds. The new law authorizes additional funds for new clean renewable energy bonds and qualified energy conservation bonds.

Montgomery County Civil Courts Moving Toward Paperless

If we told Perry Mason that lawyers would file court documents electronically (e-filing), he probably would have blurted out in that deep voice, "No way!" However, no longer does an attorney need to drive to the courthouse in Norristown and wait in line at the Prothonotary's desk to file a legal document. Neither does an attorney need to wait a few days for the post office to deliver a court decision from the judge. Now, it takes only minutes to file and serve on adversaries even the most complex or voluminous legal documents and exhibits via computer.



In August 2007, Hamburg, Rubin, Mullin, Maxwell & Lupin joined 30 other Montgomery County legal professionals to participate in the Court of Common Pleas pilot program of electronic filing of civil case court documents. We sent a paralegal to the training at the courthouse; she returned to train four secretaries in the process, and just like the old telephone advertisements went – she told two people and they told two people and so forth. As a few glitches arose, we were able to work with the IT staff at the courthouse and the Prothonotary's Office to assist to resolve the concerns during the pilot stage. We also were in contact with the bar association and members of the judiciary who were instrumental in developing and promoting the program. Over thirty-five members of HRMM&L in the Litigation, Municipal and Estates and Trusts Departments are trained in e-filing procedures. In fact, several of the staff are also trained in the e-filing programs in Philadelphia County Court of Common Pleas state court, the Eastern District of Pennsylvania federal court and the Third Circuit federal court.

Of course, in today's economical environment, your first thought may be, *how much is this going to cost?* While progress often costs money, increased costs are not an issue with e-filing. The savings to clients and other consumers of legal services will be enormous. E-filing will almost eliminate the cost of couriers travelling to the courthouse to file documents (90% of which can be e-filed). E-filing should avoid most postage costs to mail voluminous copies of the filings to adversaries' counsel or government officials. While the ultimate dream of being completely paperless is probably a decade or so away, we can begin to please the environmentally-conscious by greatly reducing the amount of paper that makes up a legal file. This also will reduce off-site storage costs for files that are closed, but which must be retained for a period of time. Almost two years since its inception, the Montgomery County civil court e-filing pilot program is a huge success.



HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

375 Morris Road • PO Box 1479 • Lansdale, PA 19446-0773
Telephone: 215-661-0400 • Fax: 215-661-0315 • www.hrmmml.com

Joan Wean, Editor

If you would like copies of the newsletter sent to someone you know, please contact Sandie at 215-661-0400.

Hamburg, Rubin, Mullin, Maxwell & Lupin's IN BRIEF is intended to provide information on recent legal developments.

The information contained in this newsletter is not offered as legal advice or legal opinion on specific facts.

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We are pleased to announce that **Diane Foxman** was elected Secretary/Treasurer of the Montgomery County Estate Planning Council. In addition, Diane once again taught a session this semester at Montgomery County Community College at the Women Owned Business Seminar.

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In February 2009, **Steve Hann** made a presentation to state and local government officials on the topic of stormwater authorities in Pennsylvania. Following the presentation, he was part of a panel discussion with Representative Bob Freeman (Northampton County), Chair of the House Local Government Committee and Senator Edwin Erickson (Delaware and Chester Counties), Vice Chair of the Senate Environmental Resource & Energy Committee, on the general topic of stormwater management in Pennsylvania. The forum took place at the Montgomery County Planning Commission Offices.

In addition, Steve Hann was a speaker for the Building Value Preservation and Property Mothballing seminar, presented by RT Environmental Services, at the Plymouth Country Club on February 4, 2009, where he discussed "What You Must Do As a Lender to Avoid Environmental Liability with Foreclosure."

The Pennsylvania Bar Association Board of Governors appointed **Steve Hann** as a Primary Member to the Sewage Advisory Committee to a two-year term, effective March 2009.

Mark Himsworth survived the Broad Street Run on Sunday, May 3, with a slow and steady speed of 1 hour and 44 minutes. Mark also ran the Race for the Cure on Mother's Day, May 10, with a time under 29 minutes. Both races benefit cancer research.

Dennis Lumia presented on the new Right to Know Law, the Municipal Records Act and record retention schedules at the Montgomery County Zoning Officers' Association on May 13, 2009. Topics covered included required disclosures under the new Right to Know law, exceptions from disclosure, and retention and disposition requirements of public records.

Scott Maxwell participated in a CLE seminar presented by the Pennsylvania Bar Institute entitled "It's not 1945 Anymore: The Evolution of Administrative Agency Law." The seminar was conducted on February 4, in Mechanicsburg and simulcast to Pittsburgh and Philadelphia.

Joe McGrory was the guest speaker at the Montgomery County Consortium of Townships meeting on March 20, 2009. The topic of his presentation involved expanding the Montgomery County Zoning Officers Association to include township planners as well as the Montgomery County Planning Commission and Temple University.

J. Edmund Mullin has been appointed to serve as Chairman of the Pennsylvania Builders Association Task Force on Judicial Review. In addition, Ed Mullin lectured, along with John VanLuvanee, Judge Del Ricci, and Judge Simpson from the Commonwealth Court, at the Montgomery Bar Association Continuing Legal Education seminar for "Land Use – A View from the Bench and the Bar" on April 23, 2009.

Merle Ochrach has been appointed to the position of Vice Chair of the Montgomery County Development Corporation which issues Small Business First Fund loans and oversees a State grant program.

In addition, Merle Ochrach addressed the Jewish Women's' Business Network at a Nosh & Learn Event on May 6 where she discussed "Legal Hints to Protect You and Your Business."

Jon Samel, Mark Himsworth and Bernadette Kearney gave an Asset Protection Planning seminar to interested members of the Delaware Valley Family Business Center in April 2009 and presented the program to Montgomery County Estate Planning Council in May 2009.

Helen Strohecker, Legal Assistant to Scott Maxwell, was re-elected as Treasurer/Assistant Secretary of the Horsham Industrial and Commercial Development Authority.

Our firm administrator, **Joan Wean**, was a co-captain for the "Hearts for Judy" team that participated in the Susan G. Komen Philadelphia Race for the Cure on Mothers Day, May 10, at the Philadelphia Art Museum. Her team had over 90 participants and raised a significant amount of money to help assist in finding a cure.

Congratulations to **Carl N. Weiner** who was an honored recipient of the State of Israel Bonds Award on Sunday, May 31, 2009.

ATTORNEYS AT LAW
ACTS Center-Blue Bell
375 Morris Road, PO Box 1479
Lansdale, PA 19446-0773

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

