



# Relocation Tax Issues Newsletter

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## The Economic Stimulus Act of 2008

What does this mean? And how does it affect many corporate transferees? For most single individuals with earned income of less than \$75,000, it means they will receive a \$600 rebate. Most married couples filing jointly with adjusted gross income (AGI) of less than \$150,000 will receive \$1,200. However, the rebates start to phase out when a single person's income is greater than \$75,000 (\$150,000 for married couples filing jointly). Rebates phase out at five percent of the amount exceeding the applicable AGI threshold. The \$600 credit for individuals, therefore, phases out completely at \$87,000 AGI, and the \$1,200 credit for married couples filing jointly phases out completely at \$174,000.

After 2008, those who missed out on the rebate or received only a partial rebate get a second shot at qualifying with 2008 income when they file their 2008 tax returns in 2009. This group includes those who did not receive a full \$600/\$1,200 check either because their 2007 income was too high because of taxable relocation dollars added to their W-2, or they did not receive a full \$300 child credit because their income was too high or because a child was born or adopted in 2008. Transferees/taxpayers get another chance to claim the difference based on their 2008 tax return filed in 2009. If a transferee would have received a smaller rebate check based on 2008 tax return information rather than what he or she did receive based on his or her 2007 return, the taxpayer is not required to give back the difference.

While based on the 2007 tax year, the rebate technically is an advance payment toward a 2008 tax reduction. Consequently, a taxpayer filing a 2007 return in 2008 cannot claim the rebate as an offset to his or her 2007 tax liability reported on the 2007 return in lieu of waiting to receive a check. Neither can the taxpayer choose to count the rebate as part of an estimated tax installment for either 2007 or 2008.

As a very simple example, all other things being equal, if for tax year 2006, a married couple with no children got a \$2,000 refund, then for tax year 2007 they



should still get their \$2,000 refund. In May or June of 2008, they will get a \$1,200 (2008 economic stimulus tax rebate) check from the IRS. Now for tax year 2008, they will still get their same \$2,000 refund, and for 2009, the same \$2,000, etc...

Now let's assume a person moved in tax year 2007 and due to their higher-than-normal income level, they do not receive their \$1,200 economic stimulus payment. If their 2008 income decreases to a more normal pre-move level, their 2008 refund will be \$3,200 (instead of their usual \$2,000).

In other words, all the economic stimulus package would have done was accelerate part of their 2008 tax year refund. Congress wanted to stimulate the current economy. So instead of most people having to wait until they file their 2008 tax returns to receive their extra \$1,200 tax refund, Congress gave it to taxpayers one year in advance. The bottom line, employees, who relocated in tax year 2007 and "lost" their economic stimulus benefit (\$1,200 for MFJ, \$600 for Single plus \$300 for children), simply need to wait until next year to reap their benefit. They did not really lose their benefit. It was delayed one



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# Temporary Assignments - Wages and Expenses

## Two Very Different Items

When the discussion of temporary assignments comes up, most relocation and payroll professionals know that with an assignment lasting less than one year, or one that starts off with the intent of lasting less than one year, all the associated **"EXPENSES"** are usually considered "business expenses", and hence treated as "non taxable" not "W-2 reportable".

*Qualified Move / Business Trip – Rev. Ruling 93-86 (11/24/93): One-Year Temporary Employment Rule. If the intent of the assignment is less than one year, the reasonable expenses reimbursed will be considered "business expenses". If the intent is "as long as necessary" or over one year, the expenses will not be considered business and need to be reported on the W-2, hence taxable or excludable. If the intent changes from under one year to over one year, only those expenses incurred after the intent changes become taxable or excludable.*

With regard to temporary assignments and the treatment of **"WAGES"** (ordinary income, the employee's salary), these wage dollars are subject to State and Local "Income Taxes" in the state the wages (salary) were earned. A tax return **"MUST"** be filed in each and every state the employee worked temporarily.

Based on a tax bill in Congress - H.R. 3359, a person (corporate employee working on a temporary assignment in a state other than the employee's state of residence) may have a 45 day or 60 day rule applied. Meaning an employee would need to work at least 45 days in a state before state payroll/income taxes would need to be withheld. The filing of a non resident income tax form would be required.

Many employers are starting to acknowledge the state income tax return filing requirement. Compliance with regards to payroll withholding is also very important. Once an employee on temporary assignment starts working in a state that has an income tax, and that "work state" does not have a reciprocal personal income tax agreement with the state where the employee lives, state and/or local income tax must be withheld.

The goal for most employers is to keep their employees who are on temporary assignment, "whole". What does "whole" mean? It means first calculating how much state and local tax dollars "would have been paid" had the employee not gone on a temporary assignment, then comparing that number to what the employee "actually paid" in total state and local taxes.

Some common administrative procedures that many companies have set up are:

- First determine if the state to be worked in temporarily has a state and/or local income tax.
- Next determine if there are any reciprocal agreements
- Assuming that state and/or local taxes will need to be withheld in the temporary location, a "loan" or "advance" is typically given.
- At year-end an accounting firm is engaged to either prepare and/or reconcile the various taxes owed plus determine if the "loan" or "advance" given was sufficient, or some extra dollars need to be "paid to the employee" to keep them "whole" or if the employee needs to repay some of the "loan" or "advance" thus keeping the company "whole".

The importance of compliance with state and local wage withholding requirements cannot be over stated. Penalties for either under withholding or no withholding are significant, not to mention the emotional burden placed on the employee who is or was on temporary assignment.

## Governmentwide Relocation Advisory Board (GRAB) Update

For anyone engaged in government relocation business, the progress of the "GRAB" initiative has been watched closely over the past 4 years. As you may recall, the GRAB Committee focused on 5 areas:

Administration & Management • Budget Tracking & Data • Relocation Reimbursement  
Residence Transactions • Transportation & Storage

At long last, the GRAB has made its way to Congress, where forward movement has been made to have many of the Committee recommendations made into law. As of this writing, the process has just begun so we will watch this issue closely and report back in the next Newsletter. In the meantime, updates will be posted to our website, in the Client Service Center, as well as on the Worldwide ERC website ([www.erc.org](http://www.erc.org)) and the GSA website ([www.gsa.gov](http://www.gsa.gov) and <http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8203&channelId=-17922>).

# Relocation Tax, Legal & Payroll Issues For Corporate Human Resources, Payroll & Relocation Professionals








## Orion Mobility/Relocation Taxes - 21st Annual Conference

Two - Three Days\*


September 22<sup>nd</sup> - 24<sup>th</sup>, 2008

Crowne Plaza Hotel - White Plains, NY


### Issues for 2008 Include:

-  Defining ROI with Regards to Relocation Policies and Programs
-  Significant 2008 Relocation/Payroll & Tax Law Issues
-  General Sales Tax Deduction Effects on 2008 Gross-ups
  - Current Hot Issues - Managing Tax & Legal Risk in 2008
  - Relocation Payback Agreements - Tax, Legal & Payroll Administration
-  FICA \$102,000 Withholding Issues / Paybacks & The Cost of Forgiveness
  - Corporate Advisory Panel - Best Practices within a Corporate Program
  - What "Does Gross-up" and "Keep the Transferee Whole" Really Mean
  - IRS Audit Targets - "Red Flags" - Employment Taxes and Withholding Strategies
  - Relocation Compliance Issues Affecting the Corporate Payroll Department
  - Tax Coding Relocation Expenses / Compliance Reporting Issues
  - Temporary Assignments - How to Structure to Maximize Tax Benefits/Administration
-  2008 Trends Within the Fortune 1000 - Relocation Tax Policies
-  Relocation Tax File Interfaces into Accounting and Payroll Systems
-  Economic Stimulus Act of 2008 - Relocation Effects Discussed in Detail

### International Sessions Include:

- International Policy Developments
- Totalization Agreements
-  Foreign Data Collection - and What It Can Mean to Your Company
-  International Assignment Management - How to Handle Exceptions
-  Foreign Currency Exchange Issues - Data Administration

### Government Relocation Breakout:

- Discuss RITA & WITA gross-up calculation methodologies
-  The latest GRAB update
- New GSA SIN 653-3 - Schedule 48 - relviewsGOV™

Orion Mobility / Relocation Taxes has been approved as a sponsoring organization to grant CEU, CPE and CRP credit:  
Up to 15 Potential CEU & CPE Credit Hours and 9 Potential CRP Credit Hours

**\* Free Day 3 - Wednesday, September 24<sup>th</sup>**  
**Software and Tax Consulting Day**  
**Open to all attendees who attended Days I and/or II**



ORION MOBILITY & Relocation Taxes

Relocation Taxes, LLC  
Personal Income Tax Return Preparation

## 21st Annual Tax & Legal Seminar

September 22<sup>nd</sup> - 24<sup>th</sup>, 2008

White Plains, NY - Crowne Plaza Hotel



**HOT  
TOPIC**

This year's conference will feature sessions on the 2008 Economic Stimulus package, managing temporary assignments, providing global compensation services for expats and up-to-the-minute federal tax trends and developments.

Located in the heart of Westchester County. Easy access to "Platinum Mile", home of many Fortune 500 companies. Complimentary van service to Westchester County Airport, White Plains Train Station, and nearby shopping. Many restaurants and universities within 7 miles of the hotel. Concierge, gift shops, limousine, car rental service, valet parking, enclosed complimentary self parking, glass-enclosed pool, exercise room with state-of-the-art equipment, whirlpool.

### Places to See / Things to Do

Adjacent to "The Westchester" – an upscale mall featuring: Burberry, Disney Store, Godiva Chocolatier, Nieman Marcus, Nordstrom, Sharper Image, Tiffany & Co. Over 30 women's fashion stores, 18 Men's fashion stores, over 21 Shoe stores, 11 cafes, and 7 specialty food stores.

Adjacent to The Cheesecake Factory and Fortunoff – The Source. Bloomingdale's is close by. A new Multiplex Cinema is across from the hotel. New York City is 30 minutes away by train.

### Transportation

The Hotel is accessible to all New York airports: Kennedy, La Guardia, Newark and White Plains. Consider using Connecticut Limousine Service (800) 472-5466 from either LaGuardia or Kennedy Airport, or Red Dot Shuttle Airport Shuttle at (800) 673-3368. A free shuttle service is available from White Plains airport.

### Reservations

Hotel accommodations should be made as soon as possible directly with the Crowne Plaza (914) 682-0050. A special room rate has been made available to seminar attendees for \$159 per night. Hotel rates DO NOT include taxes and fees. Please identify yourself as an attendee of Orion Mobility Relocation Conference when making your reservation. Please note that space is limited and will be assigned on a first-come, first-serve basis.



### REGISTRATION AND FEES

**\$745 for three days**

**\$695 each for two participants from the same company**

**\$645 each for three or more participants from the same company**

**\$395 for one day – all participant(s) (Monday or Tuesday or Wednesday)**

**\$245 Handouts only – for people who cannot attend the seminar but still want the handouts.**

**Handouts will be mailed no earlier than October 1<sup>st</sup>, 2008.**

### Limited Space:

Early registration is recommended. Reservations should be made by Friday, September 5, 2008.

### Register By:

Telephone: (203) 762-0365 or

Fax: (203) 834-9625 or

Website: [www.orionmobility.com](http://www.orionmobility.com)

### Please make checks payable to:

Orion Mobility

88 Danbury Road

Wilton, CT 06897

**All Payments must be received by September 10th**

(W-9 Form Available) (TIN# 14 – 1870823)

### Cancellation Policy:

Once you have faxed, phoned or registered on our website, you are considered registered for the seminar. If it is necessary to cancel you must receive a written "Receipt of Cancellation" from Orion Mobility. Cancellations are entitled to full refunds less a \$50 processing fee if received in writing no later than September 5th. A cancellation received after September 5th, but before September 10th, will be charged a \$100 fee. After September 10th, all reservations are considered final.

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<input type="checkbox"/> Both Days <input type="checkbox"/> Day 1 Only (Mon) <input type="checkbox"/> Day 2 Only (Tue) <input type="checkbox"/> Day 3 (Wed)		
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I authorize Relocation Taxes to charge my: <input type="checkbox"/> Visa <input type="checkbox"/> M/C <input type="checkbox"/> Discover		
Card Number:		
Exp Date:	CVC #:	
Signature:		

year. It's simply a "time value of money" issue.

With the above said, there will be some people who have unique tax situations which will not allow them to get the benefit in either 2007 or 2008. For those individuals, a 2008 tax year gross-up audit would need to be completed to determine the exact amount of any lost benefit. It may also be necessary to perform a 2007 gross-up audit at the same time to accurately calculate the effect on the taxpayer.

**Strong Recommendation:** Companies should **NOT** give their 2007 transferees any extra monies at this time. For a very select group of employees who truly may have lost this economic stimulus benefit due to their relocation, a tax year 2008 gross-up audit will need to be completed. This very small group of potential people who might fall

into this category are transferees earning right around the phase out thresholds of \$150,000 for MFJ and \$75,000 for single tax filers before their moves in tax year 2007, and in tax year 2008 earn over those thresholds. Also employees who relocate in both 2007 and 2008 may also lose their economic stimulus benefit.

At the present time the IRS has not detailed the exact mechanics of how the 2007 tax year stimulus package will be accounted for on the 2008 tax year returns. Until that time, it is recommended companies do NOT speculate and cut any extra checks to their employees until "all the dust has settled".

If you have any questions or concerns, please do not hesitate contacting David Oltman at 203-563-2102 or [doltman@orionmobility.com](mailto:doltman@orionmobility.com).

## IRS Withholding Compliance Program Creates Challenges for Employers with International Workforces

Under the Withholding Compliance program, the U.S. Internal Revenue Service (IRS) has issued an increasing number of lock-in letters to employers. A lock-in letter directs the employer to disregard an *Employee's Withholding Allowance Certificate* (Form W-4) and withhold based on the IRS's determination of filing status and withholding allowances.

### Background

The IRS redesigned its withholding compliance program to more effectively use information reported on the *Wage and Tax Statement* (Form W-2) and to ensure that employers withhold sufficient federal income tax from their employees' pay. Until April 14, 2005, the IRS had operated the Questionable W-4 ("QW-4") program, a program that targeted taxpayers attempting to circumvent the income tax withholding requirement by overstating their withholding allowances or improperly claiming exemption from withholding.

Under the QW-4 program, employers were required to submit to the IRS all Forms W-4 that either claimed (1) complete exemption from withholding on wages of more than \$200 per week or (2) more than 10 allowances. After making a determination based on the taxpayer's Form W-4, the IRS could issue a notice commonly referred to as a "lock-in letter." This notice directed the employer to disregard the taxpayer's Form W-4 and withhold using the marital status and number of allowances specified by the IRS.

### Withholding Compliance Program

The Withholding Compliance ("WHC") program has replaced the QW-4 program. The WHC program identifies potential withholding non-compliance cases based on reviews of Forms W-2, instead of Forms W-4. Temporary regulations, effective April 14, 2005, eliminated the requirement for employers to submit copies of Forms W-4 to the IRS when employees claimed exemption from withholding on wages of more than \$200 per week or claimed more than 10 allowances. Employers are now required to

submit copies of any currently effective withholding exemption certificates only if directed to do so by the IRS in either a written notice or under any published guidance.

Under the WHC program, the IRS uses information reported on Forms W-2 to identify employees with potential withholding problems. When a serious under-withholding problem appears to exist for a particular employee, the IRS may issue a lock-in letter to the employer and mail a similar written notice to the employee's last known address. The employer must provide a copy of the lock-in letter to the employee within 10 days of receipt, or if the individual is no longer employed, the former employer must so advise the IRS in writing. The letter from the former employer advising that the individual is no longer employed may be faxed to the IRS's Lowell, MA office at 1-978-474-1326.

The employer must withhold tax on the basis of the maximum number of withholding allowances specified in the lock-in letter. The earliest the lock-in letter is effective is 45 calendar days after the date of the letter, but the letter may specify a later effective date. Once the lock-in rate is effective, an employer cannot decrease withholding without IRS approval.

Before the letter becomes effective, the employee has an opportunity to address the pending withholding adjustment. The employee may submit to the IRS for approval a new Form W-4 accompanied by a written statement to support the claims made on the new Form W-4. If the employee instead submits a new Form W-4 to the employer claiming exemption from withholding or claims a number of withholding allowances more than the maximum number specified in the lock-in letter, the employer must disregard the new Form W-4 and continue to withhold tax based on the terms of the lock-in letter, unless advised otherwise by the IRS.

### Challenge for Employers with International Assignees

The IRS's reliance on information reported on Form W-2 creates a potential problem when evaluating whether the with-



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**White Plains, NY**

**September 22<sup>nd</sup> - 24<sup>th</sup>, 2008**



**Bright Minds...  
Better Views**

### **IRS Withholding Compliance Program Continued from Page 5**

holding level for an international assignee is appropriate. For employees on international assignment, the wage withholding rules may provide relief from U.S. federal income tax withholding. Generally, every employer making a payment of wages is required to deduct and withhold from those wages a tax, determined in accordance with tables or in a manner prescribed by the IRS. For income tax withholding purposes, the term "wages" includes all remuneration for services performed by an employee for the employer, including the cash value of all remuneration paid in any medium other than cash, unless specifically excepted by statute. For example, the term wages does not include amounts paid for services performed by a U.S. citizen employee if, at the time of payment, it is reasonable to believe that the amounts will be excluded from income under Internal Revenue Code (I.R.C.) section 911 (the foreign earned income and housing cost exclusion provision). In addition, amounts paid for services performed by a U.S. citizen in a foreign country are not wages if, at the time of payment, the employer is required by the law of the foreign country to withhold income tax on the remuneration. Thus, an employer is generally not required to withhold on amounts paid for services performed by a U.S. citizen if it is reasonably expected that such amounts are going to be excluded under section 911, or the employer is required by foreign law to withhold income tax on the

amounts paid for services rendered.

Further, an employee may be entitled to additional withholding allowances or additional reductions in withholding. In determining the number of additional withholding allowances or reductions in withholding, an employee may take into account estimated tax credits allowable under chapter 1. An employee may include foreign tax credits available under section 27 in calculating the number of withholding allowances to which the employee is entitled. Thus, by relying on the information reported on Form W-2, the IRS potentially does not consider circumstances whereby an employer is not required to withhold because of section 911 or withholding is required by foreign law. Similarly, the IRS may not consider that a taxpayer can take into account estimated tax credits (including foreign tax credits) when calculating additional withholding allowances claimed on Form W-4.

Based on a Form W-2 review, the IRS may issue a lock-in letter when an employee's wages have been reported on a Form W-2, but little or no corresponding income tax withholding was reported because the employee's wages were either exempt from withholding, or withholding was reduced because the employee's additional withholding allowances were determined, in part, on estimated tax credits.

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