DEPARTMENT OF THE TREASURY
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The Honorable Tom Price, M.D.
Member, U.S. House of Representatives
3730 Roswell Road, Suite 50
Marietta, GA 30062

Attention:

Dear Congressman Price:

I am responding to your inquiry dated July 30, 2009, on behalf of your constituent, . asks how a married couple who files a joint return calculates the Making Work Pay Credit if only one spouse has earned income and the other spouse, who does not work, receives a $250 economic recovery payment from the Department of Veterans Affairs or the Social Security Administration.

Taxpayers with earned income in 2009 and 2010 may be eligible for the refundable Making Work Pay Credit (section 36A of the Internal Revenue Code (the Code), added by section 1001 of the American Recovery and Reinvestment Tax Act of 2009 (the Act)). In general, a qualifying taxpayer's Making Work Pay Credit is equal to 6.2 percent of earned income, not to exceed $400 ($800 if married filing jointly).

The Making Work Pay Credit is reduced by 2 percent of the amount that the taxpayer's modified adjusted gross income (MAGI) exceeds $75,000 ($150,000 for married couples filing jointly) (section 36A(b) of the Code). The Making Work Pay Credit is also reduced by the amount of:

- Any economic recovery payments that the taxpayer receives under section 2201 of the Act and

- Any government retiree credit allowed to the taxpayer under section 2202 of the Act (section 36A(c) of the Code)

Section 2201 of the Act authorizes a $250 economic recovery payment for individuals receiving certain governmental benefits such as social security benefits, or veterans disability compensation or pension benefits.

Section 2202 of the Act authorizes a $250 refundable tax credit (the government retiree credit) for federal, state, and local government retirees whose government service was not covered by social security and who do not receive the $250 economic recovery payment. The government retiree credit is $500 in the case of a joint return if both spouses are eligible for the credit.

The following example illustrates the application of these rules to a situation in which a non-working spouse receives an economic recovery payment of $250 and the married couple would otherwise be entitled to a Making Work Pay Credit of $250 due to the earned income of the working spouse.

Result if Married Couple Files Jointly. A married couple filing a joint return is eligible to claim a Making Work Pay Credit of up to $800, even if only one spouse has earned income. However, the married couple must reduce the Making Work Pay Credit by the $250 economic recovery payment the non-working spouse receives. The married couple's Making Work Pay Credit is $0 ($250 Making Work Pay Credit reduced by the $250 economic recovery payment that the nonworking spouse received). Thus, the married couple receives a total of $250 from economic recovery payments ($250) and the Making Work Pay Credit ($0).

Result if Married Couple Files Separate Returns. If the married couple filed separate returns, the working spouse would be eligible to claim a Making Work Pay Credit of up to $400 without any reduction for the economic recovery payment the non-working spouse receives. The working spouse may claim a Making Work Pay Credit of $250 on his or her return. Thus, the married couple receives a total of $500 from economic recovery payments ($250) and the Making Work Pay Credit ($250).

Consequently, in some situations, a married couple may receive a greater total amount from the Making Work Pay Credit, economic recovery payments, and the government retiree credit by filing separate returns. In other situations, the married couple may receive a greater amount by filing a joint return.

I hope this information is helpful. If you have any questions, please contact me or
at .

Sincerely,

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