

## **“Cash for Clunkers” Legislation In Effect**

On June 24, 2009, the President signed the 2009 Supplemental Appropriations Act for Iraq, Afghanistan, Pakistan and Pandemic Flu which contained the Consumer Assistance to Recycle and Save Act of 2009,<sup>2</sup> popularly referred to as the “cash for clunkers” legislation. The Act established, in the National Highway Traffic Safety Administration, a voluntary program to be known as the “Consumer Assistance to Recycle and Save Program” to provide electronic vouchers to offset part of the purchase price or lease price of a new fuel-efficient vehicle upon the surrender of an eligible trade-in vehicle to a dealer participating in the program.<sup>3</sup> The vouchers may be used to offset the purchase price or lease price by \$3,500 or \$4,500.<sup>4</sup>

### **Eligibility requirements**

The voucher may be used to offset the purchase or lease price of a new fuel efficient vehicle by \$3,500 if – (1) the new fuel-efficient vehicle is a passenger automobile and the combined fuel economy value of the automobile is at least four miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;<sup>5</sup> (2) the new fuel efficient vehicle is a “category 1 truck” (a light pickup for example, with a combined fuel economy value of at least 18 miles per gallon) and the combined fuel economy is at least two miles per gallon higher than the combined fuel economy of the eligible trade-in vehicle.<sup>6</sup> (3) the new fuel efficient vehicle is a “category 2 truck” (large van or large pickup) that has a combined fuel economy value of at least 15 miles per gallon and the eligible trade-in vehicle is a “category 2 truck” and the combined fuel economy value of the new fuel efficient vehicle is at least one mile per gallon higher than the combined fuel economy value of the trade-in vehicle or the eligible trade in vehicle is a “category 3 truck” of model year 2001 or earlier;<sup>7</sup> or (4) the new fuel-efficient vehicle is a “category 3 truck” (work truck) and the eligible trade-in vehicle is a “category 3 truck” of model year 2001 or earlier and is of similar size or larger than the new fuel-efficient vehicle (under rules to be provided).<sup>8</sup>

It is anticipated that the regulations will provide more precise definitions for the three categories of trucks and for “passenger automobiles.”

A voucher may be used to offset the purchase or lease price of a new fuel-efficient vehicle by \$4,500 if – (1) the new fuel-efficient vehicle is a passenger automobile and the combined fuel economy is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;<sup>9</sup> (2) the new fuel-efficient vehicle is a “category 1 truck” and the combined fuel economy value is at least five miles per gallon higher than that of the eligible trade-in vehicle;<sup>10</sup> or the new fuel-efficient vehicle is a “category 2 truck” that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy of the truck is at least two miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a “category 2 truck.”<sup>11</sup>

### **Program specifications**

Vouchers can only be used for the purchase or lease of new fuel-efficient vehicles that occur between July 1, 2009 and November 1, 2009.<sup>12</sup> Not more than one voucher can be used for a single person and not more than one voucher may be issued for the joint registered owners of a single trade-in vehicle.<sup>13</sup> Moreover, no combination of vouchers is allowed with only one voucher to be applied toward the purchase or lease of a single, new fuel-efficient vehicle.<sup>14</sup>

Not more than 7.5 percent of the total funds available under the program (\$950 million) and the total value of vouchers cannot exceed the amounts appropriated under the legislation.<sup>15</sup> The legislation permits, however, use of the vouchers in combination with other federal, state or local incentives for the purchase or

lease of fuel-efficient vehicles.<sup>16</sup>

The legislation specifically bars a participating dealer from imposing additional fees associated with a voucher on a person purchasing or leasing a fuel-efficient vehicle.<sup>17</sup>

#### **Trade-in vehicles**

The term “eligible trade-in vehicle” is defined to require that the vehicle be “in drivable condition,”<sup>18</sup> have been continuously insured<sup>19</sup> and registered to the same owner for a period of not less than one year.<sup>20</sup> It is also required that the vehicle have been manufactured less than 25 years before the date of the trade-in.<sup>21</sup> In the case of an automobile, the vehicle must have a combined fuel economy of 18 miles per gallon or less.<sup>22</sup>

The trade-in vehicle must be crushed or shredded<sup>23</sup> (although any parts of the vehicle disposed of (except for the engine block and drive train) can be sold and the proceeds retained ) and the vehicle cannot be used as an automobile in the United States or in any other country.<sup>24</sup>

#### **New vehicles**

The legislation specifies that the new vehicles acquired must have a manufacturer’s suggested retail price of \$45,000 or less,<sup>25</sup> and that the legal title has not been transferred to any person other than the ultimate purchaser.<sup>26</sup> For new leased vehicles, the lease is to be for a period of not less than five years.<sup>27</sup>

#### **Vouchers not included in gross income**

The legislation specifies that the value of the vouchers is not considered to be gross income of the purchaser of the vehicle for federal income tax purposes.<sup>28</sup>