
Congress Passes Tax Bill

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On December 16, 2010, the House of Representatives passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2011 (the "Act") as approved by the Senate on December 15th. The following is a brief description of the provisions included in the Act.

Capital Gains and Dividend Rates. The Act will continue the existing 15% rate for another two years, through 2012.

Extension of Individual AMT Relief. The Act sets the AMT exemption amount for single taxpayers and head of household for 2010 at \$47,450 and for 2011 at \$48,450. For married couples filing a joint return, the 2010 exemption will be \$72,450 and the 2011 exemption will be \$74,450.

Estate and Gift Tax Changes. Effective January 1, 2010, the applicable exclusion amount for the estate and gift tax will be \$5 million. In addition, the maximum estate and gift tax rate will be set at 35%. Executors of an estate for decedents who died in 2010 may elect to use existing law (no estate tax and modified carryover basis).

Bonus Depreciation Extended and Expanded. For assets placed in service after September 8, 2010 through December 31, 2011 bonus depreciation will be allowed at 100%, rather than 50% for qualified property.

New Section 179 Deduction. The Act extends the \$500,000 expensing rules for tax years 2010 and 2011. Beginning 2012, up to \$125,000 of assets may be expensed, however, the ability to expense assets will begin to phase out after \$500,000 of asset acquisitions. In 2013, the amount will decrease to \$25,000 of assets, which may be expensed with the phase-outs beginning at \$200,000.

Reduction in Employee FICA and Self-Employment Taxes. The Act sets the self-employment tax rate at 10.4% and the employee FICA tax rate at 4.2% for calendar year 2011, creating a 2% reduction in each rate for one year.

Start of Construction Deadline for Cash Grants in Lieu of Tax Credits Extended. The Act extends for one year the start of construction deadline for cash grants in lieu of the tax credit program established under Section 1603 of the American Recovery and Reinvestment Act.

Tax-Free Distributions from Retirement Plans. The Act extends for 2 years (through 2011). The provisions permits tax-free distributions to charity from an individual retirement account up to \$100,000 per taxpayer, per year, for individuals older than 70-1/2. The Act allows individuals to make charitable transfers from their IRA during January 2011 and elect to treat them as being made during 2010.

Research Credit. The Research Tax Credit is retroactively reinstated for 2010 and 2011.

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New Markets Tax Credit. The Act extends the New Markets Tax Credit for two years (through 2011) and sets the maximum annual amount of qualified equity investments to \$3.5 billion

Extension of 15-Year Recovery for Certain Real Estate. The Act retroactively extends for 2 years (through 2011). A special 15-year cost recovery for certain leasehold improvements, restaurant buildings and improvements in retail improvements.

Exclusion of Small Business Capital Gains. The Act extends the 100% exclusion from gain from the sale of qualifying small business stock acquired after December 27, 2010 and before January 1, 2012 if held for more than 5 years.

Tax Credits on Ethanol Extended. The Act extends through 2011 the tax credit and outlet payments for ethanol and the tariffs on imported ethanol.

If you would like any additional information concerning any of these changes, please contact Phil Jelsma at pjelsma@luce.com or 619.699.2565.