

Tax Relief Act of 2010

passed by Congress

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President Obama signed the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 into law on Dec. 17, 2010. The Tax Relief Act provides extensive tax relief for taxpayers at all income levels. Estimated to cost \$858 billion, the Act includes a two-year extension of the Bush-era tax cuts, an extension of the alternative minimum tax (AMT) patch, a temporary payroll tax reduction, restoration of the estate tax for individuals with estates in excess of \$5 million and extensions of several other tax breaks.

Income tax

The current ordinary income tax rates will remain the same in 2011 and 2012. The highest ordinary income tax rate will continue to be 35 percent and both the capital gains rate and dividend rate will continue to be 15 percent. If Congress had not agreed on legislation prior to the end

of the year, the highest ordinary income tax rate would have increased to 39.6 percent, the capital gains rate would have increased to 20 percent, and the dividend rate would have increased to 39.6 percent.

Estate and gift tax

After years of debate, Congress agreed to increase the estate tax exemption amount to \$5 million per person or \$10 million per couple. Additionally, the gift tax exemption amount and the generation-skipping transfer tax exemption will be increased to \$5 million and unified with the estate tax exemption. The Act also changes the estate tax to allow the \$5 million exemption to be portable, meaning the surviving spouse can use the unused estate tax exemption of their deceased spouse. The top tax rate will be 35 percent for estate, gift and generation-skipping transfer tax. The changes to estate and gift tax under the Act will be effective for two years, leaving Congress to negotiate again in 2012.

A choice will need to be made for individuals who died in 2010 with estates in excess of \$5 million - pay no estate tax and apply the carry over basis rules or pay estate tax based on a \$5 million exemption and 35 percent tax rate and receive a step-up in the basis of the assets to fair market value.

Payroll tax reduction

During 2011, employees and self-employed workers will receive a two-percentage point reduction in Social Security payroll tax, bringing the rate paid by employees down to 4.2 percent and the rate paid by self-employed individuals down to 10.4 percent.

AMT relief

The AMT patch is extended for 2010 and 2011. The extension will keep the AMT exemption at near current levels and allow personal credits to offset AMT. Without the patch, 21 million additional taxpayers may have been subject to AMT for 2010.

Unemployment insurance

The Tax Relief Act provides for a 13 month extension of unemployment insurance for approximately two million unemployed Americans that would have lost their benefits at the end of this year.

If you have questions about the impact of the Tax Relief Act on you, your business or your estate plan, please contact an SZD attorney for more details.

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