

President Obama Signs Tax Relief Act of 2010

On December 16, 2010, President Obama signed the multi-billion dollar tax cut package, the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (“2010 Tax Relief Act”). The 2010 Tax Relief Act extends the Bush-era individual and capital gains/dividend tax cuts for all taxpayers for two years. The bill also provides for an AMT “patch,” a one-year payroll tax cut, 100 percent bonus depreciation through 2011 and 50 percent bonus depreciation for 2012, a top federal estate tax rate of 35 percent with a \$5 million exclusion, and more. This article will touch upon some of the highlights of the bill.

The following is a brief summary of the 2010 Tax Relief Act:

INDIVIDUALS

Individual Tax Rates

Under the current law, the individual income tax rates are scheduled to revert to 15, 28, 31, 36, and 39.6 percent after December 31, 2010 from the 10, 15, 25, 28, 33, and 35 percent tax rates, which were enacted in 2001 under the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”). The 2010 Tax Relief Act extends the reduced individual income tax rates for two years, through December 31, 2012.

Capital Gains/Dividends

Qualified capital gains and dividends currently are taxed at a maximum rate of 15 percent (zero percent for taxpayers in the 10 and 15 percent income tax brackets). The net capital gain rate is scheduled to revert back to 20 percent in 2011. The 2010 Tax Relief Act provides for the capital gain rate reductions for two years, through December 31, 2012.

Itemized Deduction and Personal Exemption Limitations

For higher-income taxpayers, individuals were required to reduce their itemized deductions and personal exemptions by a limitation. These limitations were repealed for 2010. The 2010 Tax Relief Act extends this repeal of the itemized deduction limitation and personal exemption limitation through December 31, 2012.

Marriage Penalty Relief

EGTRRA provided relief from the marriage penalty by increasing the basic standard deduction for a married couple filing a joint return to twice the amount for a single individual. Under the current law, this treatment is scheduled to expire after 2010. The 2010 Tax Relief Act provides the marriage penalty relief for two years, through December 31, 2012. EGTRRA also temporarily expanded the size of the 15 percent income tax rate bracket for married couples filing a joint return to help mitigate the marriage penalty. 2010 Tax Relief Act keeps this treatment in place through December 31, 2012.

Child Tax Credit

In 2011, the child tax credit without Congressional action was scheduled to drop from \$1,000 to \$500 per qualified child. The 2010 Tax Relief Act extends the \$1,000 child tax credit for two years, through December 31, 2012.

Earned Income Credit

The 2010 Tax Relief Act extends the enhanced Earned Income Credit for two years, through December 31, 2012.

Dependent Care Credit

EGTRRA had temporarily increased the maximum amount of eligible employment, enabling expenses for the dependent care credit from \$2,400 to \$3,000 (from \$4,800 to \$6,000 for more than one qualifying individual) and made other enhancements. All of these enhancements were scheduled to expire after 2010. The 2010 Tax Relief Act extends the enhanced dependent care credit for two years through December 31, 2012.

American Opportunity Tax Credit

The American Recovery and Reinvestment Act of 2009 enhanced the education credit the American Opportunity Tax Credit (AOTC). The AOTC is scheduled to expire after 2010 and revert to lower credit levels. The 2010 Tax Relief Act extends the AOTC for two more years through December 31, 2012.

Alternative Minimum Tax

An Alternative Minimum Tax (AMT) patch is intended to prevent the AMT from encroaching on middle income taxpayers by providing higher exemption amounts and other targeted relief for 2010 and 2011. The 2010 Tax Relief Act increases the exemption amounts for 2010 to \$47,450 for individual taxpayers, \$72,450 for married taxpayers filing jointly and surviving spouses, and 436,225 for married couples filing separately.

Individual Tax Extenders

Some popular but temporary individual tax incentives expired at the end of 2009. They include the state and local sales tax deduction, the teacher's classroom expense deduction, the higher education tuition deduction, and charitable contribution of IRA proceeds. The 2010 Tax Relief Act extended these for two years through December 31, 2011. The additional standard deduction for real property taxes was not extended.

PAYROLL TAX CUT

The Making Work Pay credit allows a income tax credit of an amount equal to the lesser of 6.2 percent of the individual's earned income or \$400 (\$800 for married couples filing jointly), subject to income limitations. This credit is scheduled to expire after 2010. Although, the president's plan does not renew the Making Work Pay, the 2010 Tax Relief Act provides for a one-year, two percent reduction in Social Security Tax for wage earners, from 6.2 percent to 4.2 percent. Unlike the Making Work Pay credit, the two percent reduction is available to all wage earners, with no phase out limit irrespective of income level.

This tax cut is on the employee portion only. The employer's share would remain at 6.2 percent. Self-employed taxpayers will also receive the 2 percent reduction in Social Security taxes.

FEDERAL ESTATE TAX

EGTRRA abolished the federal estate tax for decedents dying on or after January 1, 2010 and on or before December 31, 2010, providing for a carryover basis regime, which applies only for 2010. Pre-EGTRRA estate tax rates (and certain gift tax and generation skipping transfer (GST) tax provisions) are scheduled to return after 2010. The 2010 Tax Relief Act provides for a maximum estate tax rate of 35 percent and a \$5 million exclusion for two years, through December 31, 2012.

BUSINES INCENTIVES

100 Percent Bonus Depreciation

In October, the President proposed to boost 50-percent bonus depreciation to 100 percent for qualified investments made after September 8, 2010 and before December 31, 2011. Unlike section 179 expensing, it is not limited to use by smaller businesses or capped at a certain dollar level.

Research Tax Credit

The Code Sec. 41 research tax credit has expired at the end of 2009. The 2010 Tax Relief Act includes a temporary two-year extension of the credit for 2010 and 2011.

Business Tax Extenders

There are many other business tax extenders which expired at the end of 2009 that were included in this act, including 15-year recovery for qualified leasehold improvements, restaurant building and improvements, and retail improvements, New Markets Tax Credits, and business energy tax credits.

As new developments come out about this Act we will keep you informed in future editions of the Fuoco Newsletter. If you have any questions on how the 2010 Tax Relief Act affects you, contact Joel Ackerman at Jackerman@fuoco.com or your Fuoco adviser.