

Tax Planning Alert—The 2010 Tax Act
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The newly passed and signed 2010 Tax Act, formally named the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, includes several provisions that will affect taxpayers. Here is the information you need to know now about this legislation, formally named the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Major Provisions

The new law

- postpones the sunset of the 2001 and 2003 tax cuts;
- reduces the estate tax;
- extends unemployment benefits;
- includes an alternative minimum tax (AMT) patch;
- continues through 2012 the lower capital gains tax rate introduced by the Jobs and Growth Tax Relief Reconciliation Act of 2003; and
- extends for two years the repeal of the itemized deduction phase-out and the personal exemption phase-out.

Provisions That May Affect You

Estate Tax

The Act temporarily reinstates the estate tax, with an estate tax rate of 35% and an estate tax exemption of \$5 million (adjusted for inflation after 2011).

Payroll Tax

For 2011, the Act reduces the rate for the Social Security portion of payroll taxes to 10.4% by reducing the employee rate from 6.2% to 4.2%. The employer's portion remains 6.2%.

Family

The Act extends several expired or expiring provisions affecting families, including the following:

- The increased standard deduction for married taxpayers filing jointly, which is scheduled to expire after 2010, continues for two years.
- The \$1,000 child tax credit amount continues for two years instead of reverting to \$500.
- The increased starting and ending points for the earned income credit continues for two years.
- The \$3,000 amount for the child and dependent care credit, which was scheduled to revert to \$2,400 after 2010, continues for two years.

- The American Opportunity Tax Credit continues for two years.

The Act also makes adjustments to the gift exclusion and generation-skipping transfer (GST) tax that will affect family giving:

- The federal gift tax exemption is increased to \$5 million for 2011 and 2012, up from \$1 million in 2010.
- The GST tax exemptions are set at \$5 million for 2011 and 2012. The exemption limit is scheduled to drop to \$1 million beginning in 2013.

Business

The Act extends the 100% bonus depreciation for business property acquired after September 8, 2010, before January 1, 2012, and placed in service before January 1, 2012 (or before January 1, 2013, in the case of certain property). It also sets the expensing limitation under IRC §179 at \$125,000 and the phase-out threshold amount at \$500,000 for 2012. The Act then reduces these amounts to \$25,000 and \$200,000 for tax years beginning after 2012.

The temporary 100% exclusion of gain from the sale of certain small business stock under IRC §1202, enacted by the Small Business Jobs Act of 2010, is extended through 2011.

AMT

The Act includes an AMT patch for 2010 and 2011.

- For 2010, the AMT exemption amounts will be \$47,450 for unmarried individuals and \$72,450 for married individuals filing jointly.
- For 2011, the amounts will be \$48,450 and \$74,450, respectively.

Needless to say, the 2010 Tax Act is still very new. It is only just being analyzed by professional advisers. The law is potentially subject to modifications by technical correction acts. In addition, provisions of the law may be interpreted by the Treasury Department issuing regulations and by the IRS issuing forms and instructions.

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