

## **Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010**

On December 17, 2010, President Obama signed into law the "Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010." This legislation, negotiated by the White House and select members of the House and Senate, provides for a short-term extension of tax cuts made in 2001. It also addresses the Alternative Minimum Tax (AMT) and Estate, Gift and Generation-skipping Transfer taxes.

### **HIGHLIGHTS**

#### **Two-year extension of all current tax rates through 2012**

- Rates remain 10, 15, 25, 28, 33, and 35 percent
- 2-year extension of reduced 0 or 15 percent rate for capital gains & dividends
- 2-year continued repeal of Personal Exemption Phase-out (PEP) & itemized deduction limitation (Pease)

#### **Temporary modification of Estate, Gift and Generation-Skipping Transfer Tax for 2010, 2011, 2012**

- Reunification of estate and gift taxes
- 35% top rate and \$5 million exemption for estate, gift and GST
- Alternatively, taxpayer may choose modified carryover basis for 2010
- Unused exemption may be transferred to spouse
- Exemption amount indexed for inflation in 2012

#### **AMT Patch for 2010 and 2011**

- Increases the exemption amounts for 2010 to \$47,450 (\$72,450 married filing jointly) and for 2011 to \$48,450 (\$74,450 married filing jointly). It also allows the nonrefundable personal credits against the AMT.

#### **Extension of "tax extenders" for 2010 and 2011, including:**

- Tax-free distributions of up to \$100,000 from individual retirement plans for charitable purposes
- Above-the-line deduction for qualified tuition and related expenses
- Expanded Coverdell Accounts and definition of education expenses
- American Opportunity Tax Credit for tuition expenses of up to \$2,500
- Deduction of state and local general sales taxes
- 30-percent credit for energy-efficiency improvements to the home (IRC section 25C)
- Exclusion of qualified small business capital gains (IRC section 1202)

#### **Temporary Employee Payroll Tax Cut**

- Provides a payroll tax holiday during 2011 of two percentage points. Employees will pay only 4.2 percent on wages and self-employed individuals will pay only 10.4 percent on self-employment income up to \$106,800.

*See next pages for additional details.*

## FULL SUMMARY

### Reductions in Individual Income Tax Rates through 2012

- Income brackets remain 10, 15, 25, 28, 33, and 35 percent
- Capital gains and dividend rates remain at 0 or 15 percent
- Repeal of the Personal Exemption Phase-out (PEP)
- Repeal of the itemized deduction limitation (Pease limitation)
- Marriage penalty relief
- Expanded dependent care credit
- Child Tax Credit
- Earned income tax credit

### Education Incentives Extended Through 2012

- Expanded Coverdell accounts and definition of education expenses
- Expanded exclusion for employer-provided educational assistance of up to \$5,250
- Expanded student loan interest deduction
- Exclusion from income of amounts received under certain scholarship programs
- American Opportunity Tax Credit of up to \$2,500 for tuition expenses

### Extension of Certain Expiring Provision for Individuals through 2011

- Above-the-line deduction for qualified tuition and related expenses
- Tax-free distributions of up to \$100,000 from individual retirement plans for charitable purposes. Donors may treat donations made in January 2011 as if made in 2010.
- 30-percent credit for energy-efficiency improvements to the home (IRC section 25C)
- Exclusion of qualified small business capital gains (IRC section 1202)
- Deduction of state and local general sales taxes
- Parity for employer-provided mass transit benefits
- Contributions of capital gain real property for conservation purposes
- Deductibility of mortgage insurance premiums for qualified residence
- Estate tax look-through of certain Regulated Investment Company (RIC) stock held by nonresidents for decedents dying before January 1, 2012
- Above-the-line deduction for certain expenses of elementary and secondary school teachers

### Alternative Minimum Tax (AMT) Relief

- The legislation increases the exemption amounts for 2010 to \$47,450 (individuals) and \$72,450 (married filing jointly) and for 2011 to \$48,450 (individuals) and \$74,450 (married filing jointly). It also allows the nonrefundable personal credits against the AMT.

### Temporary Estate Tax Relief and Modification of Gift and Generation-skipping Transfer Taxes

- **Higher exemption, lower rate.** The legislation sets the exemption at \$5 million per person and \$10 million per couple and a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount is indexed beginning in 2012. The proposal is effective January 1, 2010, but allows an election to choose no estate tax and modified carryover basis for estates arising on or after January 1, 2010 and before January 1, 2011. The proposal sets a \$5 million generation-skipping transfer tax exemption and zero percent rate for the 2010 year.
- **Portability of unused exemption.** Under current law, couples have to do complicated estate planning to claim their entire exemption. The proposal allows the executor of a deceased spouse's estate to transfer any unused exemption to the surviving spouse without such planning. The proposal is effective for estates of decedents dying after December 31, 2010.
- **Reunification of estate and gift taxes.** Prior to the 2001 tax cuts, the estate and gift taxes were unified, creating a single graduated rate schedule for both. That single lifetime exemption could be used for gifts and/or bequests. The proposal reunifies the estate and gift taxes. The proposal is effective for gifts made after December 31, 2010.

- As noted above, the look-through of RIC stock held by non-resident decedents is extended through 2011

#### **Temporary Extension of Investment Incentives**

- **Extension of bonus depreciation for taxable years 2011 and 2012**
- **Small Business Expensing: increase in the maximum amount and phase-out threshold under section 179.** Sets the maximum amount and phase-out threshold for taxable years 2012 at \$125,000 and \$500,000 respectively, indexed for inflation. (Previously-passed legislation raised the 2010 and 2011 max amount and phase-out at \$500,000 and \$2,000,000 respectively.)

#### **Extension of Certain Expiring Provisions for Businesses through 2011**

- Enhanced charitable deduction for corporate contributions of computer equipment for educational purposes
- Enhanced charitable deduction for contributions of food inventory
- Enhanced charitable deduction for contributions of book inventories to public schools
- Special rule for S corporations making charitable contributions of property
- 15-year straight-line cost recovery for qualified leasehold improvements
- Employer wage credit for activated military reservists
- Tax benefits for certain real estate developments
- Extension of expensing of environmental remediation costs
- Treatment of interest-related dividends and short term capital gain dividends of Regulated Investment Companies (RICs)
- Work opportunity tax credit (WOTC)
- 100% Exclusion of qualified small business capital gains held for more than 5 years (IRC§1202)
- Research credit
- Qualified Zone Academy bonds

#### **Extension of Unemployment Insurance**

- The unemployment insurance proposal provides a one-year reauthorization of federal UI benefits.

#### **Temporary Employee Payroll Tax Cut**

- The legislation creates a payroll/self-employment tax holiday during 2011 of two percentage points. The employer's share of the payroll tax remains unchanged. This means employees will pay only 4.2 percent on wages and self-employed individuals will pay only 10.4 percent on self-employment income up to \$106,800. The social security trust fund is made whole by transfers from the general fund.

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Sources: U.S. Senate Committee on Finance; U.S. Congress Joint Committee on Taxation