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Highlights of the 2010 Tax Relief Act

On December 17, the President signed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 into law

The major tax components of this important legislation are:

... A two-year deferral of sunset provisions in three previous tax laws. As a result of this deferral, through 2012: the current favorable tax rate structure for individuals remains in place; the standard deduction for marrieds filing jointly won't be hit by a marriage penalty; higher-income taxpayers won't face a reduction in their itemized deductions or a phaseout of personal exemptions; long-term capital gains and qualified dividends will continue to be taxed at a maximum rate of 15%; alternative minimum tax (AMT) exemptions for individuals won't drop; and nonrefundable personal credits will continue to be available to offset AMT as well as regular tax. Numerous other tax breaks remain in place, including many education-related incentives and liberalized child tax credit rules.

... Major new economic stimulus measures, including: a 100% writeoff in the placed-in-service year of the cost of property eligible for bonus depreciation (applies for property acquired and placed in service after Sept. 8, 2010, and before Jan. 1, 2012); a 50% bonus first-year depreciation allowance for property placed in service after Dec. 31, 2011, and before Jan. 1, 2013; and for 2011, a two-percentage-point payroll/self-employment tax holiday for employees and self-employed (employees will pay only 4.2% Social Security tax on wages, and self-employed individuals will pay only 10.4% Social Security self-employment taxes on self-employment income, up to \$106,800).

... Significant estate tax relief. Among other changes, the 2010 Tax Relief Act reduces estate, gift and generation-skipping transfer taxes for 2011 and 2012 and continues a host of other estate and gift tax relief provisions that were set to expire after 2010. It preserves estate tax repeal for 2010, but in a roundabout way: estates wanting zero estate tax for 2010 must elect that option, along with the modified carryover basis rules that were set to apply for 2010. Otherwise, by default, the estate tax is revived for 2010, with a \$5 million exemption, a top tax rate of 35%, and a step-up in basis. Also for estates of decedents dying after Dec. 31, 2010, a deceased spouse's unused exemption may be shifted to the surviving spouse.

... The 2010 Tax Relief Act also extends through 2011 thirty tax breaks for businesses (including the research credit), eight key tax breaks for individuals (including the option to deduct state and local sales tax instead of state and local income tax), eleven energy related tax breaks (including the credit for energy-efficient improvements to existing homes, but with less-advantageous rules than for 2010), and five disaster relief provisions (including New York Liberty Zone tax-exempt bond financing).

This Outline highlights the key tax provisions in the 2010 Tax Relief Act.

2010 TAX RELIEF ACT'S TWO-YEAR "SUNSET RELIEF" PROTECTS KEY INDIVIDUAL TAX BREAKS

- Overview of two-year EGTRRA/JGTRRA/ARRA sunset relief.
- Reduced individual tax rates extended for two years.
- Reduced estates & trusts tax rates extended for two years.
- Withholding and other tax rates stay unchanged.
- Increased standard deduction amounts extended for two years.
- No 3%/80% limitation on itemized deductions for 2011 and 2012.
- No phase-out of personal exemptions for 2011 and 2012.
- Reduced capital gains and qualified dividends rate extended for two years.
- Expanded child tax credit extended for two years.
- Expanded earned income tax credit extended.
- Expanded adoption credit and employer-provided adoption assistance extended one year.
- Expanded employer-provided child care tax credit extended through 2012.
- Expanded dependent care tax credit extended two years.
- Numerous education incentives extended two years.
- Boosted AMT exemption amounts for 2010 and 2011.
- Personal nonrefundable credits may offset AMT and regular tax for 2010 and 2011.
- Repeal of collapsible corporation rules extended two years.

ECONOMIC STIMULUS INCENTIVES IN THE 2010 TAX RELIEF ACT

- Bonus depreciation extended; temporary 100% deduction in placed-in-service year.
- First-year depreciation cap for 2011/2012 autos and trucks boosted by \$8,000.
- Extended choice to forego bonus depreciation and claim credits instead.
- Boosted expensing amounts for 2012.
- Temporary employee/self-employed payroll tax cut for 2011.

ESTATE AND GIFT TAX RELIEF IN THE 2010 TAX RELIEF ACT

- Background on EGTRRA transfer tax changes.
- Increased exemption and reduced top rate.
- Modified carryover basis rules generally repealed.
- Special choice for 2010 decedents.
- Gift tax changes.
- Generation-skipping transfer tax changes.
- Portability of unused exemption between spouses.
- Extension of filing deadlines.
- Other EGTRRA changes temporarily continued.
- New EGTRRA sunset.

BUSINESS TAX BREAKS RETROACTIVELY REINSTATED AND EXTENDED BY THE 2010 TAX RELIEF ACT

- Research credit reinstated and extended.
- Indian employment credit reinstated and extended.
- New market tax credit reinstated and extended.
- Differential wage payment credit for employers reinstated and extended.
- 15-year writeoff for qualified leasehold and retail improvements and restaurant property reinstated and extended.
- Enhanced deduction for food inventory reinstated and extended.
- Enhanced deductions for corporate contributions of books reinstated and extended.
- Enhanced deductions for corporate contributions of computer equipment reinstated and extended.
- 7-year writeoff for motorsport racing track facilities reinstated and extended.
- Expensing election for costs of film and tv production extended.
- Expensing of environmental remediation costs reinstated and extended.
- Domestic production activities deduction available for puerto rico reinstated and extended.
- Work opportunity tax credit extended.

- Subpart F exception for active financing income reinstated and extended.
- Look-through rule for payments between related CFCs under foreign personal holding company income rules reinstated and extended.
- Lower shareholder basis adjustments for charitable contributions by S corporations reinstated and extended.
- Special rule for payments to a charity from a controlled entity reinstated and extended.
- Qualified zone academy bond limitation extended, and refundable credit repealed.
- Empowerment Zone tax breaks reinstated and extended.
- District of Columbia tax breaks reinstated and extended.
- Exemption for RIC interest-related dividends and short-term capital gains dividends reinstated and extended.
- Treatment of RIC as qualified investment entity reinstated and extended.
- Miscellaneous other provisions extended.

TAX BREAKS FOR INDIVIDUALS RETROACTIVELY REINSTATED AND EXTENDED BY THE 2010 TAX RELIEF ACT

- Above-the-line deduction for educator expenses reinstated and extended.
- State and local sales tax deduction reinstated and extended.
- Liberalized rules for qualified conservation contributions reinstated and extended.
- Above-the-line deduction for higher education expenses reinstated and extended.
- Nontaxable IRA transfers to eligible charities reinstated and extended.
- Look-through treatment of certain RIC stock in determining nonresidents' gross estate reinstated and extended.
- Increase in excludible employer-provided mass transit and parking benefits extended.
- Treatment of mortgage insurance premiums as deductible qualified residence interest extended.
- Temporary exclusion of 100% of gain on certain small business stock extended.

- New provision retroactively disregards refunds in determining eligibility for assistance from federal and federally assisted programs.

ENERGY RELATED TAX BREAKS AND DISASTER RELIEF PROVISIONS EXTENDED BY THE 2010 TAX RELIEF ACT

- Nonbusiness energy property credit extended for one year.
- New energy efficient home credit reinstated and extended two years.
- Biodiesel tax credits reinstated and extended two years.
- Biodiesel mixture excise tax credits reinstated and extended.
- Biodiesel mixture excise tax refund provisions reinstated and extended.
- Refined coal credit reinstated and extended.
- Alternative fuel tax credit reinstated and extended.
- Alternative fuel mixtures excise tax credit reinstated and extended.
- Black liquor no longer eligible for alternative fuel tax credit.
- Deferral of gain on sales of electric transmission property reinstated and extended.
- Suspension of income limitations on percentage depletion for marginal wells reinstated and extended.
- Start-of-construction deadline to receive grants for specified energy property in lieu of tax credits extended.
- Alcohol fuels credit extended.
- Reduced credit for ethanol blenders extended.
- Alcohol fuels excise tax credit reinstated and extended.
- Alcohol fuel mixtures excise tax credit extended.
- Additional duties on ethanol extended.
- Energy efficient appliance credits extended.
- Qualified alternative fuel vehicle refueling property credit extended.
- Time for issuing New York Liberty Zone bonds retroactively extended two years.
- Increased GO Zone rehabilitation credits retroactively reinstated and extended.
- Placed-in-service deadline for low-income housing credit in GO Zones extended one year.

- Deadline to issue tax-exempt bonds for the GO Zone extended one year.
- Bonus first-year depreciation for specified qualified GO Zone extension property retroactively reinstated and extended.