



Key Tax Changes in the Emergency Economic Stabilization Act of 2008

SPECIAL TAX ALERT

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On October 3, 2008, President Bush signed into law the Emergency Economic Stabilization Act of 2008 (the "Act"). Earlier in the day, the House of Representatives by a vote of 263-171 approved the bill. The Senate had previously passed the measure on October 1, 2008.

The centerpiece of the Act is, of course, the financial bailout package, but it also includes a much anticipated Alternative Minimum Tax ("AMT") patch, an extensive package of tax extenders, energy incentives, disaster relief, and more. The Act's \$150 billion in tax incentives impact both individuals and businesses. However, the approximately \$44 billion in offsets represent tax increases for certain groups. The following summary highlights some of those provisions:

- ***Financial bailout-related tax changes.*** Negotiations between House and Senate lawmakers resulted in the financial markets rescue plan. The rescue package includes three major tax-related provisions:
 - a three-year extension for home mortgage debt forgiveness relief,
 - tax relief for community banks by permitting them to treat losses on Fannie Mae and Freddie Mac preferred stock holdings as ordinary losses, and
 - a tax crackdown on compensation and severance pay for certain financial executives.
- ***AMT relief for individuals.*** The AMT patch included in the Act:
 - boosts AMT exemption amounts for individuals for 2008,
 - provides that for 2008, personal nonrefundable credits may offset AMT and regular tax, and
 - liberalizes the AMT refundable credit amount rules.
- ***Individual tax breaks.*** More than 30 tax breaks that either expired at the end of 2007 or are soon to expire have been extended by the Act. For example, all of the following individual tax breaks are retroactively revived to apply for the 2008 tax year and are extended to apply to the 2009 tax year as well:
 - the election to deduct state and local general sales tax,
 - the above the line deduction for higher education expenses,
 - the above the line deduction for educator expenses, and
 - the ability of taxpayers age 70 1/2 or older to make nontaxable IRA transfers to eligible charities.

- **Business tax breaks.** Business tax breaks extended by the Act include:
 - the research credit (which is also modified),
 - the 15-year write-off for qualified leasehold improvements and qualified restaurant property (which is also liberalized),
 - enhanced deductions for certain charitable contributions (which is also liberalized for farmers),
 - the expensing option for qualified environmental remediation expenses, and
 - the New Markets Tax Credit.

- **New tax relief measures.** These include:
 - relaxed write-off rules for film and TV productions,
 - quick 5-year depreciation for many types of farm property,
 - modified rules for the penalty on understatement of a taxpayer's liability by a tax return preparer,
 - mental health parity rules, and
 - liberalized rules for the refundable child tax credit.

- **Energy incentives.** The new law extends numerous energy tax incentives including:
 - the alternative energy credit,
 - the residential energy efficient property credit,
 - the energy efficient buildings deduction,
 - the credit for energy efficient improvements to new homes,
 - a new credit for plug in electric vehicles, and
 - many other tax incentives are either extended or created for alternative energy creation.

- **Disaster relief.** The Act provides a host of tax relief measures for disaster victims (both individuals and businesses) in ten Midwestern states and also creates new national disaster relief for all federally declared disasters occurring after 2007 and before 2010.

- **Revenue raisers.** The revenue raisers in the Act include:
 - broker reporting of customers' basis in securities transactions,
 - an extension of the 0.2% FUTA surcharge,
 - a limited Code Sec. 199 domestic production activities deduction for the oil and gas industry, and
 - new rules for nonqualified deferred compensation from certain tax-indifferent parties.

The above is an overview of the tax provisions under the Act. Please call your Kreischer Miller tax professional if you have any questions regarding a specific provision.



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