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Overview of the Tax Provisions in the 2010 Tax Relief Act

The recently enacted Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act) is a sweeping tax package that includes, among many other items, an extension of the Bush-era tax cuts for two years, estate relief, a two-year patch of the alternative minimum (AMT), a two-percentage-point cut in employee-paid payroll taxes and in self-employment tax for 2011, new incentives to invest in machinery and equipment, and a host of retroactively resuscitated and extended tax breaks for individuals and businesses. Here's a look at the key elements of the package:

- The current income tax rates will be retained for two years (2011 and 2012), with a top rate of 35% on ordinary income and 15% on qualified dividends and long-term capital gains.
- Employees and self-employed workers will receive a reduction of two percentage points in Social Security payroll tax on wages paid in the calendar year 2011, or self-employment earnings for the calendar year 2011, bringing the rate down from 6.2% to 4.2% for employees, and from 12.4% to 10.4% for the self-employed.
- A two-year AMT patch for 2010 and 2011 will keep the AMT exemption near current levels and allow personal credits to offset AMT. Without the patch, an estimated 21 million additional taxpayers would have owed AMT for 2010.
- Key tax credits for working families that were enacted or expanded in the American Recovery and Reinvestment Act of 2009 will be retained. Specifically, the new law extends the \$1,000 child tax credit and maintains its expanded refundability for two years, extends rules expanding the earned income credit for larger families and married couples, and extends the higher education tax credit (the American Opportunity tax credit) and its partial refundability for two years.
- The Act repealed the phase out of itemized deductions and personal exemptions for higher income individuals through December 31, 2012. Therefore there is no phase out of itemized deductions or personal exemptions for the calendar years 2010, 2011, and 2012.
- Earlier this year the Health Care Bill increased the maximum annual adoption assistance payments from \$12,170 to \$13,170 and extended the program through 2011. This Act extends those provisions through 2012.
- The Small Business Jobs Act of 2010 extended the 50% first-year bonus depreciation on qualified property (primarily **new** equipment and machinery) placed in service in 2010. This Act increased the first-year bonus depreciation rate to 100% for qualified property placed in service after September 8, 2010 and through December 31, 2011.
- The Small Business Jobs Act of 2010 increased the Code Section 179 expensing limit to \$500,000 for tax years beginning in 2010 and 2011. For tax years beginning in 2012 and after the limit would have dropped to \$25,000. However, this Act increased the limit for tax years beginning in 2012 to \$125,000.



- Many of the traditional tax extenders are extended for two years, retroactively to 2010 and through the end of 2011. Among many others, the extended provisions include:
 - The election to take an itemized deduction for State and local general sales taxes instead of the itemized deduction permitted for State and local income taxes.
 - The above-the-line deduction for qualified higher education expenses.
 - The \$250 above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, certain supplies, equipment, and supplementary materials used by the educator in the classroom.
 - The credit for energy-efficient improvements for existing homes (up to \$1,500).
 - The rule that allows premiums for mortgage insurance to be deductible as interest that is qualified residence interest.
 - The increased contribution limits and carryforward period for contributions of appreciated real property (including partial interests in real property) for conservation purposes.
 - The provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to \$100,000 per taxpayer, per tax year. Individuals also will be allowed to make charitable transfers during January of 2011 and treat them as if made during 2010.
- The research credit.
- The work opportunity credit.
- The 15-year recovery period for qualifying leasehold improvements, restaurant buildings and improvements, and retail improvements.
- The five-year write-off of new farm machinery and equipment.
- The Indian employment credit.
- The accelerated depreciation for business property on an Indian reservation.
- The Act also extended for one or two years a number of the energy tax incentives, primarily targeted to businesses.
- After a one-year hiatus, the estate tax will be reinstated for 2011 and 2012, with a top rate of 35%. The exclusion amount will be \$5 million per individual in 2011 and will be indexed to inflation in following years. Estates of people who died in 2010 can choose to follow either 2010's or 2011's rules. In addition the Act provides for portability between spouses with respect to the \$5 million exclusion amount.
- For gifts made in 2010, the Act provides that gift tax is computed using a rate schedule having a top tax rate of 35 percent and a maximum applicable exclusion amount of \$1 million. For gifts made in 2011 and 2012, the gift tax is reunified with the estate tax with a top gift tax rate of 35 percent and a maximum applicable combine gift tax and estate tax exclusion amount of \$5 million.
- Omitted from the new law: Repeal of a controversial expansion of Form 1099 reporting requirements.

I hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call.

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