

Overview of Key Tax Provisions of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (HR 4853)

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Purpose: Provide a summary of key individual, business, and estate tax provisions included in this bill.



The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (“the Act”), was signed into law December 17, 2010. The Act generally consists of extensions of expired or expiring tax provisions. One of the most important features is the extension of the Bush-era tax cuts set to expire December 31, 2010. Also included in the bill is the extension of several popular tax breaks and the AMT “patch” – all of which expired December 31, 2009.

See Quick Reference Card for what tax practitioners need to know for:

- **Tax preparation for 2010 tax year**
- **Tax planning for 2011**

Individuals

1. AMT Patch
2. Traditional “Small” Extenders
3. Payroll Tax Holiday
4. Mortgage Insurance Premiums
5. Nonbusiness Energy Property Credit
6. Tax Rates
7. Limitations on Itemized Deduction and Personal Exemptions
8. Marriage Penalty Relief
9. American Opportunity Credit and Other Education Benefits.
10. Child Tax Credit
11. Earned Income Tax Credit

Small Businesses

12. Traditional Extenders
13. Bonus Depreciation
14. Payroll Tax Holiday
15. Section 179 Deduction

Estate and Generation Skipping Transfer Taxes

16. Estate Taxes
17. Generation Skipping Transfer Taxes

What Expires

18. Increased Standard Deduction for Real Property Taxes
19. New Vehicle Sales Tax Deduction
20. First \$2,400 Unemployment Compensation exclusion
21. Required Minimum Distribution Waiver
22. Making Work Pay Credit
23. Alternative Motor Vehicle Credit

Individual Provisions

Effective for tax years 2010 and 2011

1. **AMT Patch.**

- The Act extends higher AMT exemption amounts for 2010 (\$47,450 for S and HH filers, \$72,450 for MFJ filers) and 2011 (\$48,450 for S and HH filers, \$74,450 for MFJ filers). Higher AMT exemptions result in fewer taxpayers paying AMT.
- The patch extension also allows certain nonrefundable personal tax credits for AMT. These include the dependent care credit, the nonbusiness energy property credit, and the lifetime learning credit.

2. **Traditional “Small” Extenders.**

- Tuition and fees deduction
- State and local sales tax deduction
- Educator’s expense deduction
- Qualified charitable distributions from IRAs
- DC Homebuyer Credit

Effective for tax year 2011 only

3. **Payroll Tax Holiday.** NEW! Establishes a “payroll tax holiday” – a reduction in the employee-only portion of social security tax.

- The employee portion only of social security tax, 6.2% of the first \$106,800 in 2010, is reduced to 4.2% of the first \$106,800 in 2011. The maximum dollar reduction in social security taxes is \$2,136. This reduction applies only to the *employee* portion of social security.

Note: this is a payroll, not income, tax provision and has no effect on tax withholding or estimated tax payments, which are related to income tax liabilities.

- The SE tax rate for self-employed taxpayers will also be reduced from 12.4% to 10.4%.

Note: Because SE taxes are paid together with federal income taxes, this reduction may affect estimated tax payments as well as the taxpayer’s total tax liability.

4. **Mortgage Insurance Premiums.** Mortgage insurance premiums paid by a taxpayer on a qualified mortgage may be deducted as mortgage interest, subject to phaseout on the taxpayer’s AGI. This provision was set to expire after 2010.

5. **Nonbusiness energy property credit.**

The Act extends for one year the credit for energy-saving home improvements, such as windows, insulation, and furnaces. However, pre-ARRA limitations apply, including the \$200 limit on windows and \$500 overall credit limitation.

Effective for tax years 2011 and 2012 only

6. Tax Rates.

- Individual tax rates. Lower rates in effect for 2010 are extended through 2012. Tax rates established by EGTRRA and JGTRRA (10%, 15%, 25%, 28%, 33%, and 35%) are extended through 2012 for all taxpayers regardless of income.
- Capital Gain and Qualified Dividend Rates. Favorable capital gain and qualified dividend rates in effect for 2010 are extended through 2012. Current (2010) rates on long-term capital gain and qualified dividends are extended an additional two years. The maximum net long-term capital gain rate remains at 15% (0% for taxpayers in the 10% and 15% tax brackets). Qualified dividends continue to be taxed at favorable capital gain rates instead of at ordinary income rates.

7. Limitations on Itemized Deductions and Personal Exemptions.

Completely repealed in 2010, itemized deduction limitations and personal exemption phaseouts for higher income taxpayers were scheduled to be reinstated after 2010. However, this Act repeals the itemized deduction and personal exemption phaseout for two more years. This means that taxpayers can claim their full itemized deduction and personal exemption amounts, regardless of income.

8. Marriage Penalty Relief.

Extended for two years, this provision helps married taxpayers filing joint returns avoid paying higher taxes than they would pay if they were single filers.

9. American Opportunity Credit and Other Education Benefits.

- American Opportunity Credit (AOC). An enhanced Hope credit introduced by ARRA in 2009 and set to expire December 31, 2010. The AOC is a partly-refundable credit up to \$2,500 for the first-four years of college.
- Coverdell Education Savings Account. A tax-favored savings vehicle for education expenses. The Act maintains the \$2,000 contribution limit, which was set to decrease to \$500 in 2011, and allows tax-exempt distributions for qualified elementary and secondary education expenses.
- Student loan interest deduction. An above-the-line deduction up to \$2,500 of qualified interest. The Act continues EGTRRA enhancements which include repeal of the 60-month time period over which loan payments qualify for the deduction and higher phaseout ranges. These enhancements make the deduction available to more taxpayers.

10. Child Tax Credit (CTC).

The maximum CTC per qualified child will remain at the 2010 level of \$1,000. The enhanced ARRA provision allowing refundability of the credit for earned incomes over \$3,000 has been extended as well.

11. Earned Income Tax Credit (EITC).

- Continues the way that the credit was calculated under EGTRRA
- Extends the higher phaseout range (\$5,000 adjusted for inflation) for married taxpayers filing a joint return.
- Extends higher EITC for families with three children.

Business Provisions

Effective for calendar year 2010 and 2011

12. Traditional Extenders. The Act extends several business incentives that expired December 31, 2009 for two years through 2011. These include:

- The research and development credit
- Indian employment tax credit
- The Work Opportunity Tax Credit
- Employer wage credit for employees who are in the military on active duty

Effective September 9, 2010 through December 31, 2012

13. Bonus Depreciation.

- The Act allows 100% expensing of qualifying property placed in service September 9, 2010 through December 31, 2011.
- Note: For 2012 only, 50% bonus depreciation is allowed.

Effective for calendar year 2011 only

14. Payroll Tax Holiday. NEW! Establishes a “payroll tax holiday” – a reduction in the employee-only portion of social security tax.

- The employee portion only of social security tax, 6.2% of the first \$106,800 in 2010, would be reduced to 4.2% of the first \$106,800 in 2011. The maximum dollar reduction in social security taxes is \$2,136. This reduction applies only to the *employee* portion of social security.
Note: This provision affects the amount of withholding from employee pay in 2011.
- The SE tax rate for self-employed taxpayers will also be reduced to 12.4% to 10.4%.

Note: Because SE taxes are paid together with federal income taxes, this reduction may affect estimated tax payments as well as the taxpayer’s total tax liability.

Effective for calendar year 2012

15. Section 179 Deduction.

Effective for 2012 only, the section 179 limitation for qualified property is \$125,000 with a phaseout threshold of \$500,000. This is a *decrease* from the 2010 and 2011 limitation of \$500,000. However, absent the Act, the limit and threshold would have been significantly lower (\$25,000 and \$200,000, respectively)

Estate and GST Taxes

16. Estate Tax.

The estate tax is reinstated and modified through 2012.

- The estate tax, which was repealed in 2010, has been reinstated. The maximum estate tax rate is 35% with an exemption of \$5 million that is indexed to inflation. The Act also reestablishes stepped-up basis on property inherited from a decedent.
- Executors of estates of decedents who died in 2010 may elect to apply the previous provisions (no estate tax, modified carry-over basis).

17. Generation Skipping Transfer Tax. The generation skipping transfer tax is reinstated for 2010 as well and generally conforms to the estate tax provisions. However, for 2010, the GSTT rate is 0%.

What Expires

Beginning in 2010, the following provisions are not available

18. Increased Standard Deduction for Real Property Tax

19. New Vehicle Sales Tax Deduction

20. First \$2,400 Unemployment Compensation Exclusion

21. Required Minimum Distribution Waiver

Beginning in 2011, the following provisions are not available

22. Making Work Pay Credit

23. Alternative Motor Vehicle Credit

Please note the following abbreviations:

- EGTRRA Economic Growth and Tax Relief Reconciliation Act of 2001
- JGTRRA Jobs and Growth Tax Relief Reconciliation Act of 2003
- ARRA American Recovery and Reinvestment Act of 2009