



TAX in the *news* special

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TAX LAW CHANGES

Now that tax season 2010 has come to a close, we begin preparing for tax season 2011. This special edition of *TAX in the news* provides a reference for tax law changes affecting the 2010 tax return. We've also highlighted upcoming changes that go into effect for tax year 2011 (tax season 2012) as well as expired and expiring provisions.

We hope you'll keep this special edition handy. We'll keep it posted to www.thetaxinstitute.com throughout the year and will update it for additional changes.

2010 PROVISIONS (tax year 2010—tax season 2011)

<p>1) Adoption credit §36C (new section) Form 8839 2010 and 2011</p>	<ul style="list-style-type: none"> • Maximum credit increased to \$13,170 (up from \$12,170) • Credit is fully refundable (was nonrefundable, but could be carried forward 5 years) • All other credit provisions are unchanged
<p>2) Depreciation §179 Form 4562 2010 only</p>	<ul style="list-style-type: none"> • Enhanced §179 deduction up to \$250,000 extended through 2010 • Phaseout for property over \$800,000 extended through 2010 • No provision to extend bonus depreciation at this time
<p>3) Estate tax repeal Note: It is very likely that these statutes will be modified some time this year</p>	<ul style="list-style-type: none"> • Estate tax and generation skipping tax (GST) are <i>repealed</i> for 2010 • Gift tax exemption is \$1 million • Limited step-up basis (to \$1.3 million, to \$3 million for spouse) <p>Note: The repeal does NOT apply to estate <i>income tax</i> (Form 1041)</p> <ul style="list-style-type: none"> • After 2010, gift, estate, and GST rules schedule to return to pre-2001 law
<p>4) First-time homebuyer credit—recapture begins §36(f) Form 5405 Note: This is <i>not</i> a new law, but a 2008 law that first applies in 2010</p>	<ul style="list-style-type: none"> • Repayment period for FTHC claimed for homes purchased in 2008 begins in 2010 • Repayment in 15 equal installments • Maximum repayment up to \$500; repayment cannot be more than gain on the sale (after reducing basis for credit claimed) • Repayment accelerated if house sold or no longer used as principal residence within the repayment period • Does not apply to 2009 purchases claimed on 2008 return • Limited exceptions: Death, involuntary conversion, divorce, military service

<p>5) Health care premiums for adult children §§105(b), 106, 162(l), 401(h) Starts March 30, 2010</p>	<ul style="list-style-type: none"> • Employer-paid health insurance premiums for children under age 27 are tax-exempt to the employee • Child must be taxpayer's son, daughter, stepson, stepdaughter, adopted son or daughter, or eligible foster child • Child need <i>not</i> be a dependent of the taxpayer • Similar rule applies to employer reimbursements of medical benefits, distributions from FSAs and HRAs, health benefits for retirees, and VEBAs • Self-employed taxpayers who qualify for the SE health insurance deduction may include premiums paid for children under age 27 in the deduction
<p>6) HIRE Act payroll tax exemption §3111(d)(1) Forms W-2, W-11 (new), 941 2010 only</p>	<ul style="list-style-type: none"> • Exemption for employer share of social security taxes on wages paid to qualified newly hired employees after 2/3/10 and before 1/1/11 • Qualified employees must certify (new Form W-11) that they were not employed more than 40 hours during the 60 day period immediately preceding employment • New employee must not replace existing employee unless the latter left voluntarily or was fired for cause and must not be related to employer • Revised Form W-2 will have new code "CC" to denote HIRE-exempt wages
<p>7) Personal exemption and itemized deduction phaseout limited §§151(d)(3)(F), 68(f) Form 1040, Schedule A 2010 only</p>	<ul style="list-style-type: none"> • The limitation on personal exemptions and itemized deductions (a/k/a the "phaseout of the phaseout") for taxpayers with higher AGIs is completely eliminated • Unless new legislation is passed, the phaseouts for higher AGI will be restored in 2011
<p>8) Plug-in Electric Drive Motor Vehicle Credit §30D Form 8936 Introduced in 2009, modified for 2010</p>	<ul style="list-style-type: none"> • Credit range is \$2,500 to \$7,500 depending on battery capacity • Phaseout begins in second quarter following manufacture of 200,000th vehicle • Low-speed vehicles do NOT qualify for this credit after 2009 (but may qualify for a plug-in electric "neighborhood" vehicle credit up to \$2,500)
<p>9) Roth IRA conversions §408A(c)(3)(B) Form 8606 First effective in 2010</p>	<ul style="list-style-type: none"> • \$100,000 MAGI limitation on converting traditional IRA to Roth IRA no longer applies—<u>this is a permanent change</u> • Tax on 2010 conversion is spread over a two-year period (2011-2012) <ul style="list-style-type: none"> ○ Taxpayer may elect instead to pay all tax in 2010 ○ Special allocation available <i>only</i> for 2010 conversions ○ No other allocations or elections available • Conversions after 2010 taxed in year of conversion

<p>10) Small Employer Health Care Premium Tax Credit §45R (new)</p> <p>Form 3800 and new form TBD</p> <p>First effective in 2010</p>	<ul style="list-style-type: none"> • General business credit up to 35% of employer-paid premiums paid by qualified employers <ul style="list-style-type: none"> ○ 25 or fewer full-time equivalent employees ○ Average annual wages of no more than \$50,000 ○ At least 50% of self-only level premium paid for covered employees (cafeteria plans do not qualify) • Credit phases out between 10-25 FTEs and/or average annual wages of \$25,000-\$50,000 <ul style="list-style-type: none"> ○ Each reduction is applied separately
<p>2009 PROVISIONS THAT EXPIRED 12/31/2009</p>	
<p>Expired provisions</p> <p>These provisions expired after 2009 and are not available for 2010 (TS 2011); it is possible that many will be extended later this year at least through 2010</p>	<ul style="list-style-type: none"> a) AMT patch b) Casualty losses in federal disaster area not subject to 10% of AGI limitation c) Educator's expense deduction d) Qualified charitable distributions from IRAs e) Standard deduction for federal disaster losses f) Standard deduction for real property taxes g) State and local sales tax deduction in lieu of income tax deduction h) Tuition and fees deduction i) COBRA subsidy (must be involuntarily terminated by 5/31/10) j) Bonus depreciation k) RMD waiver l) Tax-free unemployment up to \$2,400 m) Economic recovery payment n) Government retirees credit o) First-time homebuyer credit (generally, expires after 4/30/10) p) New vehicle sales tax deduction
<p>2011 PROVISIONS (tax year 2011—tax season 2012)</p>	
<p>1) HIRE credit §38(b)</p> <p>Form 3800 and possible new form TBD</p>	<ul style="list-style-type: none"> • A general business credit of up to \$1,000 for each qualified retained worker • A qualifying worker is: <ul style="list-style-type: none"> ○ Hired after 2/8/2010 and before 1/1/2011 (i.e. qualifies for the payroll tax exemption) ○ Retained for at least 52 consecutive weeks ○ Paid wages for the last 26 weeks of the year that are at least 80% of the wages paid in the first 26 weeks of the year

<p>2) HSA/health FSA/HRA expenses limited §§223(d)(2)(A), 220(d)(2)(A), 106(f)</p>	<ul style="list-style-type: none"> • Qualified expenses no longer include over-the-counter items such as non-prescription cold medicine • Prescription drugs and insulin still qualify • All other qualified expenses (doctor visits, hospitalization, medical tests, etc.) remain the same
<p>3) HSA penalty §223(f)(4)(a) Form 8889</p>	<ul style="list-style-type: none"> • Additional tax on nonqualified distributions from HSAs and Archer MSAs increases from 10% to 20%
<p>2010 PROVISIONS THAT WILL EXPIRE 12/31/10</p>	
<p>EGTRRA/WFTRA (a/k/a Bush tax cuts) sunset Note: We can expect to see a great deal of legislation proposed in 2010 and 2011 to extend or modify these provisions. It is too early to say how much of the “sunset” will actually take place.</p>	<p>Most of the tax cuts and other provisions introduced by the Economic Growth and Tax Relief Reconciliation Act of 2001, the Working Families Tax Relief Act of 2004, and subsequent legislation are scheduled to expire or “sunset” after 12/31/10</p> <p>Some of these are:</p> <ul style="list-style-type: none"> • The \$1,000 refundable child-tax credit (reverts to a maximum \$500 credit, limited refundability) • Marriage penalty relief for standard deduction, tax brackets, and other purposes eliminated • Lower tax brackets (minimum bracket reverts to 15% and maximum bracket reverts to 39.6%) • AMT patch (lower AMT exemptions will apply and nonrefundable credits will not be allowed for AMT) • Child and dependent care credit (reverts to maximum 30% credit on maximum expenses of \$2,400/\$4,800) • Earned income credit (eliminates higher credit for joint filers, phaseout based on nontaxable as well as taxable income, other less liberal provisions will apply)

For questions about this edition of *TAX in the news*, e-mail us at TheTaxInstitute@thetaxinstitute.com