

Rosen Seymour Shapss Martin & Company LLP

Certified Public Accountants & Profitability Consultants

RSSM Alert

Tax Extenders and Alternative Minimum Tax Relief Act of 2008

Dear Clients and Friends of the Firm:

The "Tax Extenders and Alternative Minimum Tax Relief Act of 2008" (the 2008 Extenders Act), which was enacted on October 3, 2008, provides extensions for several popular tax breaks and the addition of several new relief provisions, including disaster area tax relief. Here's an overview of the key provisions in the new legislation:

Deduction of state and local general sales taxes. The option to deduct state and local general sales taxes is extended through 2009.

Qualified tuition deduction. The above-the-line tax deduction for qualified higher education expenses is extended through 2009.

Teacher expense deduction. The provision allowing teachers an above-the-line deduction for up to \$250 for educational expenses is extended through 2009.

IRA rollover provision. The provision allowing qualified taxpayers to make tax-free contributions from their IRA plans to qualified charitable organizations is extended through 2009.

Additional standard deduction for real property taxes. The standard deduction for real property taxes for nonitemizers is extended through 2009.

Research and development credit. The research tax credit is extended through 2009. In addition, the alternative simplified credit is increased from 12% to 14% for the 2009 tax year, and the alternative incremental research credit is repealed for the 2009 tax year.

15-year straight-line cost recovery for qualified leasehold, restaurant, and retail improvements. The 15-year writeoff for qualified leasehold, restaurant and retail improvements is extended through 2009.

Basis adjustment to stock of an S corporation making charitable contributions of property. Favorable Subchapter S basis rules for gifts of appreciated property are extended through 2009.

Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico. The provision allowing a Section 199 domestic production

activities deduction for activities in Puerto Rico is extended through 2009.

AMT

New law provides one-year stopgap fix. To prevent the unintended result of having millions of middle-income taxpayers fall prey to the AMT, Congress has once again relied on a temporary "patch" to the problem. This time a one-year extension of the 2007 exemption amounts increased slightly. Under the new law, for tax years beginning in 2008, the AMT exemption amounts are increased to: (1) \$69,950 in the case of married individuals filing a joint return and surviving spouses; (2) \$46,200 in the case of unmarried individuals other than surviving spouses; and (3) \$34,975 in the case of married individuals filing a separate return.

Personal credits may be used to offset AMT through 2008. Another provision in the new law provides AMT relief for taxpayers claiming personal tax credits. The tax liability limitation rules generally provide that certain nonrefundable personal credits (including the dependent care credit, the elderly and disabled credit, and the Hope Scholarship and Lifetime Learning credits) are allowed only to the extent that a taxpayer has regular income tax liability in excess of the tentative minimum tax, which has the effect of disallowing these credits against AMT. Temporary provisions had been enacted which permitted these credits to offset the entire regular and AMT liability through the end of 2007. The new law extends this temporary provision to tax years beginning in 2008.

Extension and modification of AMT credit allowance against incentive stock options (ISOs). A further provision in the new law liberalizes the AMT refundable credit amount that was first enacted in 2006 to help taxpayers who were stung by the AMT as a result of exercising ISOs. Under the regular tax, ISOs are not taxed upon exercise. Under the AMT, however, a taxpayer must pay tax on the stock value when the option is exercised. The economic downturn in 2000 resulted in many individuals having to pay tax on "phantom income" because the stock prices dropped dramatically after the date of exercise. In 2006, Congress provided relief for these situations but did not correct the problem entirely. The new law provides additional relief to affected taxpayers by accelerating the refund of taxes paid on the phantom income and by stopping further IRS efforts to collect those taxes. Specifically, the new law allows 50% of long-term unused minimum tax credits to be refunded over each of two years (instead of 20% over each of five years as was allowed under pre-2008 Extenders Act law), eliminates a rule that limited the relief available to higher-income taxpayers, and abates any underpayment of tax outstanding on the date of enactment related to ISOs and the AMT including interest.

Other extended provisions. Other provisions extended through 2009 include:

- Qualified zone academy bonds
- Indian employment credit
- Accelerated depreciation for business property on Indian reservation
- Tax credit for certain expenditures for maintaining railroad tracks
- 7-year recovery period for certain motorsports racetrack property
- Work opportunity tax credit for Hurricane Katrina employees
- New markets tax credit
- Increased rehabilitation credit for structures in the Gulf Opportunity Zone

- Enhanced charitable deduction for qualified computer contributions
- Tax incentives for investments in the District of Columbia
- Enhanced charitable deduction for food inventory
- Enhanced charitable deduction for contributions of book inventory to schools
- Special expensing rules for certain film and television productions
- Exception under Subpart F for active financing income

Revenue raisers. The new legislation offsets the cost of the tax break extensions by requiring hedge fund managers and others to account for deferred compensation (income held in offshore accounts and other corporate structures) as it accrues, rather than avoiding appropriate and timely income taxes.

Additional tax relief provisions. In addition to the extensions of tax relief described above, the 2008 Extenders Act also includes liberalizations for the child tax credit, income averaging for Exxon Valdez litigation amounts, a 5-year writeoff for certain farming equipment, and a change in the standards for imposition of the tax return preparer penalty.

Disaster relief. Included in the new legislation is Midwestern disaster area tax relief for victims of the disaster in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin, and a new tax relief package for victims of all Federally-declared disasters occurring after December 31, 2007 and before January 1, 2010 (e.g., eased loss deduction rules, a new business writeoff for demolition, cleanup and repair, a 5-year carryback for casualty losses or qualified disaster expenses, bonus 50% first year depreciation for property placed in service through December 31, 2011 (December 31, 2012 for real property), and increased expensing dollar limits).

We hope this information is helpful. If you would like more details about these changes, or any other aspects of the new law, please feel free to contact us at 212-303-1880 or e-mail at info@rsmcpa.com. Visit our website at www.rsmcpa.com.

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