

“Tax Extenders and Alternative Minimum Tax Relief Act of 2008”

The “Tax Extenders and Alternative Minimum Tax Relief Act of 2008” (the 2008 Extenders Act), which was enacted on Oct. 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simplified credit is increased from 12% to 14% for the 2009 tax year, and the alternative incremental research is repealed for the 2009 tax year.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 2008.

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.

Other extended provisions. Other provisions extended through 2009 include:

- Enhanced charitable deduction for qualified computer contributions.
- Enhanced charitable deduction for food inventory.
- Enhanced charitable deduction for contributions of book inventory to schools.

Alternative Minimum Tax

Earlier temporary measures to deal with the unintended creep of the AMT's reach expired at the end of 2007, meaning that more than 20 million additional taxpayers would have faced paying the tax on their 2008 returns without the new relief.

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 incentive stock options (ISOs).

Emergency Economic Stabilization Act of 2008

Three tax provisions in the Emergency Economic Stabilization Act of 2008: which was enacted Oct. 3, 2008. includes an extension for home mortgage debt forgiveness relief.

Two-year extension of home mortgage debt forgiveness relief provision. The new law provides assistance to homeowners who have been caught in the current mortgage crisis and are trying to save their homes. Under 2007 tax legislation, taxpayers are generally allowed to exclude up to \$2 million of mortgage debt forgiveness on their principal residence. However, this relief provision was scheduled to expire at the end of 2009. Under the new law, this debt relief provision is extended through 2012.

To understand the importance of this relief provision, one needs to know that for income tax purposes, a discharge of indebtedness—that is, a forgiveness of debt—is generally treated as giving rise to income that's includible in gross income. Under pre-2007 tax law, there were no special rules applicable to discharges of acquisition debt on the taxpayer's principal residence. For example, assume a taxpayer who wasn't in bankruptcy and wasn't insolvent owned a principal residence subject to a \$200,000 mortgage debt for which the taxpayer had personal liability. The creditor foreclosed and the home was sold for \$180,000 in satisfaction of the debt. Under pre-2007 tax law, the debtor had \$20,000 of debt discharge income. The result was the same if the creditor restructured the loan and reduced the principal amount to \$180,000.

In 2007 the tax laws were temporarily changed to allow taxpayers to exclude up to \$2 million of mortgage debt forgiveness on their principal residence. For example, assume the same facts as in the foregoing example except that the discharge occurs in 2008. In that case the debtor has no debt discharge income when the creditor (1) restructures the loan and reduces the principal amount to

\$180,000 or (2) forecloses with the result that the \$200,000 debt is satisfied for \$180,000. However, this debt relief provision was scheduled to expire at the end of 2009. The new legislation extends the provision through 2012. The relief is not extended to home equity loans.

Solar tax credit extended and enhanced.

Under pre-2008 Energy Act law, homeowners were eligible for tax credits for qualified solar water heating and photovoltaic systems. Solar water heating systems produce hot water; photovoltaic systems produce electricity. The credits, which were available for systems placed in service between Jan. 1, 2006 and Dec. 31, 2008, were for 30% of the cost of the system. For individuals the maximum credit was \$2,000 for photovoltaic systems and \$2,000 for solar water heating systems in any tax year.

The new law makes several improvements on the previous rules. First, it extends the credit for an additional eight years (through 2016). Second, it scraps the \$2,000 cap, which didn't go far with most solar installations. The \$2,000 cap meant that a homeowner who installed a \$40,000, 5-kilowatt rooftop system could get only \$2,000 back through the tax break. Under the new law, that same homeowner receives a \$12,000 ($30\% \times \$40,000$) tax cut. With similar or even more generous incentives available in many states, that means that a homeowner will often be able to get more than half the investment in a home solar-power system back from the government. A third improvement under the new law is that the tax credit is made applicable against the alternative minimum tax (AMT). Under pre-2008 Energy Act law, an individual could not use the credit to reduce his income tax below the level at which the AMT kicked in. The new law allows the credit to be used to offset the AMT.

Tax Credit on Plug-In Electric Vehicles

The new law provides a tax incentive to purchase plug-in electric vehicles which, although they are still a couple of years away from reaching showrooms, are already poised for a tax break of up to \$7,500 in the form of a new tax credit.

The tax credit for plug-in electric vehicles will range from \$2,500 to \$7,500 for light-duty vehicles, with factors such as battery capacity determining how much buyers will receive. The base-line credit will be \$2,500 for vehicles powered by a 4-kilowatt hour battery. (By way of comparison, the current Toyota Prius stores 1.3 kilowatt hours.) An additional \$417 will be added for each kilowatt hour of battery power beyond that, up to a total limit of \$7,500 for light-duty vehicles (up to \$15,000 for vehicles weighing more than 26,000 pounds). Thus, a light-duty vehicle with a 16-kilowatt hour battery pack (such as the prospective Chevrolet Volt) will get the maximum credit, which may help ease the burden of the expected steep sticker prices of plug-in electric vehicles. The new provision further encourages early buyers by stipulating that the credit will be phased out after the 250,000th plug-in electric vehicle has been sold.

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