



Summary of Selected Provisions of the Emergency Economic Stabilization Act of 2008

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On October 3, 2008, President Bush signed into law the Emergency Economic Stabilization Act of 2008 (“the Act”). The Act, which was intended to implement what has become known as the “bailout plan,” provides a multitude of items pertaining to the alternative minimum tax (AMT), extender provisions, energy incentives, and several other details in addition to the provisions of the Act directly related to the bailout of the financial market.

Bail Out Provisions. The Act contains several provisions which directly implement the bailout of the financial sector. These provisions include, in part, the following:

The Act authorizes Treasury to establish standards to govern compensation paid to executives of companies that received government assistance in the bail out. The Act also includes a limit on the deductibility of compensation paid to these executives.

The Act contains provisions allowing qualified financial institutions, including community banks, holding preferred stock in Fannie Mae or Freddie Mac to treat the related losses as ordinary losses if certain criteria are met.

Finally, the Act extends provisions of the Mortgage Forgiveness Debt Relief of 2007. The extension allows, until 2012, a taxpayer owning a principal residence to exclude the otherwise taxable income generated upon the foreclosure of a taxpayer’s residence when the lender forgives a portion of the outstanding balance of the mortgage in connection with the foreclosure.

Individual Taxpayer Provisions. The Act includes several provisions that benefit individual taxpayers. Some of the more pertinent ones include:

I. AMT Relief

The Act provides a “patch” which prevents the AMT from engulfing, as a result of inflation, a new set of taxpayers. The AMT is a separately figured tax under the federal income tax system. Initially enacted in 1969 to prevent high-income individuals and corporations from evading all or most of their taxes through loopholes, the AMT imposes a separate method of calculating tax liability. For the 2008 tax year, the Act increases the maximum AMT exemption amount over its 2007 level by \$1,850 (\$3,700 for married taxpayers filing joint returns), so the exemption amounts



are \$69,950 for joint filers, \$46,200 for single filers, and \$34,975 for married taxpayers filing separate returns. Additionally, the law provides that for 2008, the AMT relief available for individuals claiming “nonrefundable” personal tax credits (such as the dependent care credit and certain education tax credits) may offset an individual's regular tax and AMT by the amount of these credits. This provision will provide the benefit of allowing taxpayers subject to the AMT to decrease their ultimate tax liability by the tax credits.

II. Extension of Prior Tax Breaks

There were several beneficial tax provisions which expired in 2008. The Act resuscitates and extends the following for one year so they will apply through December 31, 2009:

The Act extends the option for individuals to claim an itemized deduction for state and local general sales taxes as an alternative to an itemized deduction for state and local income taxes. This allows a taxpayer to choose to reduce taxable income (and liability) by the higher of the two taxes.

The Act extends the above-the-line deduction for qualified higher education expenses paid during the tax year. The maximum deduction is \$4,000; this amount begins to fade out for taxpayers with incomes over \$65,000. Accordingly, taxpayers that spend money on qualifying educational expenses for an applicable beneficiary will continue to have the ability to reduce their taxable income by the amount of the expense, up to \$4,000.

The Act extends the ability of taxpayers 70 ½ years of age or older to make tax-free distributions of up to \$100,000 from an individual retirement account (IRA) to a qualified charity. It is important to keep in mind that a charitable deduction is not allowed for any portion of the contribution that would have constituted a taxable withdrawal.

III. Energy Provisions

The Act extends through 2016 the credit for “residential energy efficient property,” scheduled to expire the end of 2008. Moreover, the Act retroactively adds two new types of qualifying property, and, beginning after 2008, removes the credit limit for “qualified solar electric property.”

Previously, the credit was based on three types of expenditures: (i) qualified solar electric property, (ii) qualified solar water heating property, and (iii) qualified fuel cell property. The new law adds two more: (i) qualified small wind energy property and (ii) qualified geothermal heat pump property. The credit for each type of property is 30 percent of qualifying expenditures, subject to a dollar limit

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for each: \$2,000 for qualified solar electric property expenditures in 2008 (limit is removed after 2008); \$2,000 for qualified solar water heating property expenditures; \$2,000 for qualified geothermal heat pump property expenditures; \$500 for each half kilowatt of capacity (not to exceed \$4,000) for qualified small wind energy property expenditures; and \$500 for each half kilowatt of capacity for qualified fuel cell property expenditures.

IV. New Tax Relief for Victims of Disasters

Individuals may deduct personal casualty or theft losses if they exceed a \$100 limit per incident and only if these losses in the aggregate exceed 10 percent of adjusted gross income (AGI). Before 2008, only itemizers could deduct casualty losses. The new law waives the 10 percent of AGI limit for victims of disasters declared federal disasters in 2008 and 2009, plus, for these years, permits nonitemizers to claim a deduction for federal disaster losses. However, for 2009 only, the new law boosts the \$100 per casualty limit to \$500 (which will reduce deductions).

Tax Incentives for Businesses. The Act provides many tax provisions directly targeted toward businesses including:

I. Qualifying Restaurant and Leasehold Improvements

The Act provides that certain restaurant and leasehold improvements will remain eligible for an accelerated 15-year cost recovery period. Without the provision, taxpayers who make these types of improvements would have to recover the costs of such improvement over a longer time period (generally 39½ years). The special treatment, set to expire on December 31, 2007, was resuscitated and extended until December 31, 2009. Additionally, Congress authorized the accelerated 15-year recovery period for the depreciation of qualifying improvements to retail space. The provision applies to retailers regardless of whether they lease their space or own their own building.

II. Research Tax Credit

The Act enhances and extends the research tax credit for businesses. This credit allows a taxpayer to recover, through reduced income taxes, the cost of certain research expenditures. The credit is available for amounts paid or incurred during 2008 or 2009. The Act also increases the credit to 14 percent of qualified research expenses that exceed 50 percent of the average qualified research expenses incurred by the business in the preceding three years.

III. Charitable Contributions

The Act extends, through December 31, 2009 the enhanced deductions available for qualifying businesses that contribute food to qualifying charitable organizations

or books and computer equipment to qualifying schools.

IV. Tax Credits for New Markets

The Act extends, through December 31, 2009, the New Markets Tax Credit which provides an incentive for taxpayers to invest in or make loans to small businesses.



V. Energy Provisions

In addition to energy provisions for individuals, the Act provides energy provisions for businesses. Significantly, the Act extends the deduction available for energy efficient commercial buildings until December 31, 2013.

The Act also extends several renewable energy incentives, and in many instances expands the definition of qualifying renewable energy sources. For instance, the credit available to businesses that produce electricity from qualified wind facilities is extended through December 31, 2009; the credit for producing electricity through biomass is extended through September 30, 2011; and the credit for energy generated through solar, fuel cell and microturbine property is extended through December 31, 2016.

VI. Hurricane Katrina Provisions

The Act extends through December 31, 2009 several tax incentives created after Hurricane Katrina, including the Work Opportunity Tax Credit for employers impacted by Hurricane Katrina, as well as a credit for rehabilitation of structures located in the Gulf Opportunity Zone.

Revenue Raisers. The Act also provides \$43 billion in revenue raisers to offset the cost of \$150 billion in tax incentives. One of the most significant offsets heightens requirements on brokers by mandating them to report the type of gain, as well as the adjusted basis, of publicly traded securities stemming from certain sales transactions. The reporting requirements apply to stocks acquired on or after 2011, mutual funds acquired on or after 2012 and other securities acquired in 2013.



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