



Rescue Act Includes Tax Breaks for Individuals and Businesses

The Emergency Economic Stabilization Act of 2008 (EESA), signed into law by President Bush on October 3, 2008, is designed to address the current U.S. credit crisis. But this "rescue" act also extends and expands a multitude of tax breaks for individuals and businesses that had already expired or were set to expire after this year, including many energy-related incentives. In addition, it provides relief for natural disaster victims in the Midwest, Louisiana and Texas.

AMT relief for individuals

Perhaps the most significant tax provision affecting individuals is the extension of alternative minimum tax (AMT) relief. The AMT is a separate tax system that limits some deductions and doesn't permit others — you must pay the AMT if your AMT liability exceeds your regular tax liability. Unlike the regular tax system, the AMT system isn't regularly adjusted for inflation. So if Congress hadn't acted, many middle class taxpayers would have had to pay AMT for 2008.

EESA provides a one-year "patch" that increases the AMT exemption. For married couples filing jointly, the 2008 exemption is \$69,950. For singles and heads of households, it's \$46,200, and for married filing separately, it's \$34,975. These amounts are up slightly from 2007, but significantly higher than what they would have been for 2008 without the patch — \$45,000, \$33,750 and \$22,500, respectively.

The patch also expands the AMT income ranges over which the exemptions phase out. The 2008 phase out ranges are now \$150,000 to \$429,800 for married filing jointly, \$112,500 to \$297,300 for singles and heads of households, and \$75,000 to \$214,900 for married filing separately. The exemption is completely phased out if AMT income exceeds the top of the applicable range.

Additionally, the act extends a provision through 2008 that allows certain nonrefundable personal tax credits to provide a benefit against the AMT, such as the dependent care credit, the Hope credit and the Lifetime Learning credit. (The child credit and the adoption credit are already allowed for AMT purposes under previous law.)

EESA also provides more relief to many taxpayers whose incentive stock option (ISO) exercises have made them subject to the AMT. It abates unpaid AMT liability, as well as interest and penalties, generated by ISO exercises before 2008. It also increases the amount of refundable long-term AMT credit for AMT paid in past years. For calendar years 2008 through 2012, eligible taxpayers can now claim 50% — up from 20% — of their unused credit.

Despite these AMT-related provisions, many taxpayers will continue to be subject to this additional tax until more substantial changes are made.

Extensions benefiting individuals

Some other important tax breaks for individuals that expired in 2007 have now been extended through 2009:

The state and local sales tax deduction. It allows you to deduct state and local *sales* taxes rather than state and local *income* taxes. It primarily benefits those living in states with no income tax but may also benefit taxpayers who live in low-income-tax states or who purchase major items during the year, such as cars or boats.

The qualified tuition deduction. It allows eligible taxpayers to deduct up to \$4,000 of qualified higher education tuition and fees "above the line," which means, unlike an itemized deduction, it reduces your adjusted gross income (AGI). But this deduction is limited to \$2,000 for joint filers with AGIs of \$130,000 to \$160,000 (\$65,000 to \$80,000 for single filers) and is unavailable to taxpayers with higher AGIs. Taxpayers ineligible for education credits may be eligible for this deduction.

Additional breaks that have been extended through 2009 include:

- The provision allowing taxpayers age 70½ or older to make tax-free distributions from their IRAs (up to \$100,000 annually) to tax-exempt charities,
- The above-the-line deduction for certain out-of-pocket expenses (up to \$250) of elementary and secondary school teachers, and
- The additional standard deduction for real property taxes for nonitemizers (up to \$1,000 for joint filers, \$500 for single filers) that was provided earlier this year under the Housing and Economic Recovery Act.

Plus, EESA extends through 2012 a provision that generally allows homeowners to avoid paying federal income taxes on debt forgiveness received in connection with a foreclosure or a mortgage workout on a principal residence.

Extensions benefiting businesses

Here are some of the more significant breaks for businesses that EESA has extended through 2009 and, in some cases, expanded:

The research and development (R&D) credit. Generally, it's equal to 20% of qualified research expenses in excess of a certain amount based on the company's historical activity. But businesses can instead take the alternative simplified credit (ASC), equal to 12% (14% for 2009) of qualified research expenses exceeding 50% of the previous three tax years' average expenses.

Accelerated depreciation for leasehold and restaurant improvements. This provision allows a shortened recovery period of 15 years — rather than 39 years — for qualified leasehold and restaurant improvements (generally those made by the lessor or the lessee to the interior of a nonresidential building more than three years after the building was placed in service).

EESA also expands the provision to cover certain:

- New construction for qualified restaurant property, and
- Improvements to retail space.

These expansions apply only to property placed in service after Dec. 31, 2008, and before Jan. 1, 2010.

The enhanced deduction for food, book and computer donations. Businesses can take a deduction for more than their cost of certain contributions of food to charity and of books and computer equipment to qualifying schools. The deduction is equal to cost plus one-half of any increase in value, not to exceed double the cost. The items contributed must be used by the charity for its exempt purpose.

Energy incentives

EESA extends many energy-related tax provisions and adds some new tax incentives. There are breaks for both individuals and businesses, including:

- An extended credit for nonbusiness energy property,
- A modified energy-efficient appliance credit,
- A new credit for qualified plug-in electric drive motor vehicles,
- A new transportation fringe benefit for bicycle commuters,
- An extended energy-efficient commercial buildings deduction,
- An accelerated recovery period for depreciation of smart meters and smart grid systems, and
- A special depreciation allowance for certain reuse and recycling property.

Contractors may benefit from breaks for qualified green building and sustainable design projects.

Natural disaster relief

For certain areas in the Midwest damaged by floods, tornadoes and severe storms earlier this year, EESA provides many tax incentives that are similar to the relief provided in the Gulf Opportunity (GO) Zone after Hurricanes Katrina, Rita and Wilma. It also extends certain GO Zone relief provisions.

EESA provides more limited relief for the Hurricane Ike disaster area, but it expands national disaster relief overall, generally for natural disasters occurring after Dec. 31, 2007, and before Jan. 1, 2010.

Revenue raiser offsets

Basis reporting by brokers on sales of stock. The bill would require mandatory basis reporting to the IRS by brokers for transactions involving publicly traded securities, such as stock, debt, commodities, derivatives and others items as specified by Treasury. Reporting will take effect for stock acquired in 2011, mutual funds acquired in 2012, and other securities acquired in 2013.

FUTA surtax. The Federal Unemployment Tax Act (FUTA) imposes a 6.2% gross tax rate on the first \$7,000 paid annually by covered employers by each employee. A temporary surtax of 0.2% of taxable wages previously has been added to the permanent FUTA tax rate, and the surtax subsequently has been extended through 2008. The bill extends the FUTA surtax through 2009.

EESA also includes additional offsets related to:

- Capping Section 199 deductions at 6% for oil and gas production,
- Modification of Section 907 by tightening rules for oil and gas companies to pay taxes on overseas income,
- Nonqualified deferred compensation plans maintained by foreign corporations will generally become taxable,
- Extension of the oil spill liability trust fund through 2017.

How will EESA affect you?

EESA is one of the largest tax acts in recent years and may significantly affect your tax liability in a variety of ways. So please let us know if you have any questions about this or other tax laws. We are committed to help you identify strategies you might implement to minimize your taxes for 2008 and beyond.