



#119 – December 20, 2010

Was this forwarded to you? Sign up for any of ABA's 30-plus E-Mail Bulletins— all free to ABA member bank employees after a very quick registration process. Visit www.aba.com

The President Signs The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853)

After unsuccessful last-minute efforts by House Democrats to change the estate tax provision in the Senate bill, the House passed the tax cut bill late at night on December 16 by a vote of 277 to 148. The only amendment offered - an attempt to adopt the 2009 estate tax rate of 45 percent with a \$3.5 million exemption level - failed by a vote of 194 to 233. The framework of the bill was hammered out in negotiations between Congressional Republicans and the administration, and resolves all the major outstanding tax legislative issues facing lawmakers this session. At the bill signing ceremony the following day, President Obama stated that, "[t]his is progress and that's what they (the American people) sent us here to achieve. We are here with good news for the American people this holiday season. By a wide margin, both houses of Congress passed a package of tax relief that will protect the middle class, that will grow our economy and will create jobs for the American people."

While several members noted that the bill was less than perfect (for different reasons), they agreed that it was better than doing nothing. For instance, House Majority Leader Steny Hoyer (D-MD) stated that, "[t]here is probably no one on this floor that likes this bill. Therefore, the judgment is: Is it better than doing nothing? This is a jobs bill in my view, which is why I'll vote for it."; incoming House Ways and Means Committee Chairman Dave Camp (R-MI) stated that, "[w]hile this bill is not perfect, Congress made the right decision today to prevent a job-killing tax hike on Americans and small businesses. While I would prefer these provisions be extended permanently, this bill will give us some breathing room. Next year we should address the uncertainty in the tax code by passing fundamental tax reform so that families can thrive and employers can create jobs."; and incoming House Speaker John Boehner (R-OH) said, "It's a good first step, but let's be clear. If we actually want to help our economy get back on track and to begin creating jobs, we need to end the job-killing spending binge. We need to cut spending significantly, and we need to provide more certainty to small businesses around America."

In addition to extending by two years the 2001 and 2003 individual income tax cuts for all taxpayers, the bill also:

- Reduces an employee's share of Social Security taxes from 6.2% to 4.2% for 2011.
- Extends unemployment insurance benefits for 13 months.
- Provides 100% expensing for bonus depreciation property placed in service after Sep. 8, 2010, and before Jan. 1, 2012.
- Extends the American Opportunity Tax Credit (college tuition), the Child Tax Credit and the Earned Income Tax Credit.

- Extends the state and local sales tax deduction for two years.
- Extends the current capital gains and dividends rates for all taxpayers for an additional two years, through 2012.
- Extends Alternative Minimum Tax relief for two years.
- Increases the estate tax exemption to \$5 million (indexed for inflation) and reduces the top rate to 35 percent for 2011 and 2012.
- Phases-out the premiums for mortgage insurance as interest that is qualified residence interest – Under current law, a taxpayer may itemize the cost of mortgage insurance on a qualified personal residence. The deduction is phased-out ratably by 10% for each \$1,000 by which the taxpayer's AGI exceeds \$100,000. Thus, the deduction is unavailable for a taxpayer with an AGI in excess of \$110,000. The bill extends this provision for an additional year, through 2011.
- Extends the Section 1603 grants in lieu of credits program for renewable energy in the American Recovery and Reinvestment Act for one year.
- Extends the credit under Section 25C for energy-efficient improvements to existing homes through 2011.
- Reinstates the research credit for two years (through 2011).
- Extends the active financing exception from Subpart F of the tax code for two years (through 2011).
- Extends the current law look-through treatment of payments between related controlled foreign corporations for two years (through 2011).

[Click here](#) to view the text of the bill. [Click here](#) to view a summary of the bill.

Treasury/IRS Issue Final Regulations on Schedule UTP

12/15/2010 – The Treasury/IRS issued final regulations under section 6012 relating to the new Schedule UTP. The final regulations, which effectively adopt the proposed regulations published in September 2010, are effective December 15, 2010 and apply to returns filed for tax years beginning after December 31, 2009. According to the IRS in the preamble, "[t]his rule will authorize the IRS to require certain corporations, as set out in forms, publications, instructions, or other guidance, to provide information concerning uncertain tax positions concurrent with the filing of a return." The final regulations do not adopt a recommendation that would prevent the disclosure of privileged information on the Schedule UTP. The preamble explains that the filing of Schedule UTP stems from the Service's determination that the information about uncertain tax positions taken in a tax return is essential to achieving an effective and efficient self-assessment tax system. Hence, "[p]rovisions relating to the assertion of privilege are not included in this regulation, since it does not affect the existence of any applicable privileges taxpayers may have concerning information requested by a return or how they may assert those privileges." [Click here](#) to view the final regulations.

The IRS has indicated that it intends to continue to issue answers to questions still remaining in this area. Thus, despite the fact that final regulations have been issued, the agency has noted that it is aware that questions and uncertainties still exist and it intends to respond to them in the form of frequently asked questions (FAQs) and answers on its website. However, in order to issue answers, the agency must receive questions from taxpayers. The American Bankers Association will be sending in questions for

which our members require answers/comments/additional information to the IRS. If you have any questions or issues requiring answers or additional information that you would like to have addressed by the IRS on the UTP topic, please email them to me at fmordi@aba.com and I will forward to my contact at the IRS (without including bank/employee name – unless specifically requested by you). Hopefully, the sooner the IRS receives the questions the sooner it will release answers, so please send me your questions/request for additional information as soon as possible.

ABA Tax Briefs is published by the American Bankers Association as a member service. ABA Members: To unsubscribe and to manage your subscriptions, please visit [ABA E-Mail Bulletins](#) and check or uncheck the appropriate boxes. For other inquiries, please contact ABA's Fran Mordi at fmordi@aba.com or 1-800-BANKERS.

American Bankers Association, 1120 Conn. Ave NW, Wash. DC 20036