Summary of Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010

Cross References
• HR 4853

The President signed into law the Tax Relief, Unemployment Insurance, Reauthorization, and Job reation Act of 2010 on December 17, 2010. The new law included many provisions that are retroactive to January 1, 2010

I. Temporary Extension of Tax Relief
Two major bills enacting tax cuts for individuals were set to expire at the end of 2010: the *Economic Growth and Tax Relief Reconciliation Act of 2001* (EGTRRA); and the *Jobs and Growth Tax Relief Reconciliation Act of 2003* (JGTRRA). The new tax law extends these provisions from EGTRRA and JGTRRA for an additional two years, through 2012. The new tax law also extends a number of provisions enacted as part of EGTRRA that were modified in the *American Recovery and Reinvestment Act*
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Reductions in Individual Income Tax Rates
Temporarily extend the 10% bracket. Under prior law, the 10% individual income tax bracket was set to expire at the end of 2010. Upon expiration, the lowest tax rate was set to be 15%. The new law extends the 10% individual income tax bracket for an additional two years, through 2012.

Temporarily extend the 25%, 28%, 33%, and 35% brackets. Under prior law, the 25%, 28%, 33%, and 35% individual income tax brackets were set to expire at the end of 2010. The new law extends the 25%, 28%, 33%, and 35% individual income tax brackets for an additional two years, through 2012.

Temporarily repeal the Personal Exemption Phaseout. Personal exemptions allow a certain amount per person to be exempt from tax. Due to the Personal Exemption Phaseout ("PEP"), the exemptions are phased out for taxpayers with AGI above a certain level. The EGTRRA repealed PEP for 2010. The new law extends the repeal of PEP for an additional two years, through 2012.

Temporarily repeal the itemized deduction limitation. Generally, taxpayers itemize deductions if the total deductions are more than the standard deduction amount. Since 1991, the amount of itemized deductions that a taxpayer may claim has been reduced, to the extent the taxpayer's AGI is above a certain amount. This limitation is generally known as the "Pease limitation." The EGTRRA repealed the Pease limitation on itemized deductions for 2010. The new law extends the repeal of the Pease limitation for an additional two years, though 2012.

Capital Gains and Dividends
Temporarily extend the capital gains and dividend rates. Under prior law, the capital gains and dividend rates for taxpayers below the 25% bracket were equal to zero percent. For those in the 25% bracket and above, the capital gains and dividend rates were 15%. These rates were set to expire at the end of 2010. The new law extends the lower capital gains and dividends rates for all taxpayers for an additional two years, through 2012.

Child Tax Credit

Temporarily extend the modified child tax credit. Generally, taxpayers with income below certain threshold amounts may claim the child tax credit to reduce federal income tax for each qualifying child under the age of 17. The EGTRRA increased the credit from $500 to $1,000. The EGTRRA also expanded refundability. The amount that may be claimed as a refund was 15% of earnings above $10,000. The *American Recovery and Reinvestment Act of 2009* provided that earnings above $3,000 would count towards refundability for 2009 and 2010. The new law extends the current child tax credit for an additional two years, through 2012.

Marriage Penalty Relief
Temporarily extend marriage penalty relief. The new law extends the marriage penalty relief for the standard deduction, the 15% bracket, and the EITC for an additional two years, through 2012.

Incentives for Families and Children
Temporarily extend the expanded dependent care credit. The dependent care credit allows a taxpayer a credit for an applicable percentage of child care expenses for children under 13 and disabled dependents. The EGTRRA increased the amount of eligible expenses from $2,400 for one child and $4,800 for two or more children to $3,000 and $6,000, respectively. The EGTRRA also increased the applicable percentage from 30% to 35%. The new law extends the changes to the dependent care credit made by EGTRRA for an additional two years, through 2012.

Temporarily extend the increased adoption tax credit and the adoption assistance programs exclusion. Taxpayers that adopt children can receive a tax credit for qualified adoption expenses. A taxpayer may also exclude from income adoption expenses paid by an employer. The EGTRRA increased the credit from $5,000 ($6,000 for a special needs child) to $10,000, and provided a $10,000 income exclusion for employer-assistance programs. The Patient Protection and Affordable Care Act of 2010 extended these benefits to 2011 and made the credit refundable. The new law extends for an additional year, through 2012, the increased adoption credit amount and the exclusion for employer assistance programs as enacted in EGTRRA.

Temporarily extend the credit for employer expenses for child care assistance. The EGTRRA provided employers with a credit of up to $150,000 for acquiring, constructing, rehabilitating or expanding property which is used for a child care facility. The new law extends this provision for an additional two years, through 2012.

Earned Income Tax Credit (EITC).
Temporarily extend third-child EITC. Under prior law, working families with two or more children qualified for an earned income tax credit equal to 40% of the family's first $12,570 of earned income. The *American Recovery and Reinvestment Act* increased the earned income tax credit to 45% of the family's first $12,570 of earned income for families with three or more children and increased the beginning point of the phase-out range for all married couples filing a joint return (regardless of the number of children). The new law extends for an additional two years, through 2012, the *American Recovery and Reinvestment Act* provisions that increased the credit for families with three or more children and increased the phase-out range for all married couples filing a joint return.

Education Incentives
Temporarily extend expanded Coverdell Accounts. Coverdell Education Savings Accounts are tax-exempt savings accounts used to pay the higher education expenses of a designated beneficiary. The EGTRRA increased the annual contribution amount from $500 to $2,000 and expanded the definition of education expenses to include elementary and secondary school expenses. The new law extends the changes to Coverdell accounts for an additional two years, through 2012.

Temporarily extend the expanded exclusion for employer-provided educational assistance. An employee may exclude from gross income up to $5,250 for income and employment tax purposes per year of employer-provided education assistance. Prior to 2001, this incentive was temporary and only applied to undergraduate courses. The EGTRRA expanded this provision to graduate education and extended the provision for undergraduate and graduate education to the end of 2010. The new law extends the changes to this provision for an additional two years, through 2012.

Temporarily extend the expanded student loan interest deduction. Certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses up to $2,500. Prior to 2001, this benefit was only allowed for 60 months and phased out for taxpayers with income between $40,000 and $55,000 ($60,000 and $75,000 for joint filers). The EGTRRA eliminated the 60 month rule and increased the income phaseout to $55,000 to $70,000 ($110,000 and $140,000 for joint filers). The new law extends the changes to this provision for an additional two years, through 2012.

Temporarily extend the exclusion from income of amounts received under certain scholarship programs. Scholarships for qualified tuition and related expenses are excludible from income. Qualified tuition reductions for certain education provided to employees are also excluded. Generally, this exclusion does not apply to qualified scholarships or tuition reductions that represent payment for teaching, research, or other services. The National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program provide education awards to participants on the condition that the participants perform certain services. The EGTRRA allowed the scholarship exclusion to apply to these programs. The new law extends the changes to this provision for an additional two years, through 2012.

Arbitrage rebate exception for school construction bonds. The new law extends the $15 million arbitrage rebate exception for school construction for an additional two years,through 2012. Tax-exempt private activity bonds for qualified education facilities. The new law extends the allowance to issue tax-exempt private activity bonds for public school facilities for an additional two years, through 2012.

Temporarily extend the American Opportunity Tax Credit. Created under the *American Recovery and Reinvestment Act*, the American Opportunity Tax Credit is available for up to $2,500 of the cost of tuition and related expenses paid during the taxable year. Under this tax credit, taxpayers receive a tax credit based on 100% of the first $2,000 of tuition and related expenses (including course materials) paid during the taxable year and 25% of the next $2,000 of tuition and related expenses paid during the taxable year. 40% of the
credit is refundable. This tax credit is subject to a phaseout for taxpayers with adjusted gross income in excess of $80,000 ($160,000 for married couples filing jointly). The new law extends the American Opportunity Tax Credit for an additional two years, through 2012.

II. Temporary Individual Alternative Minimum Tax (AMT) Relief

Two-year AMT patch. The new law increases the exemption amounts for 2010 to $47,450 (individuals) and $72,450 (married filing jointly) and for 2011 to $48,450 (individuals) and $74,450 (married filing jointly). The new law also allows the nonrefundable personal credits against the AMT. The new law is effective for taxable years beginning after December 31, 2009.

III. Temporary Estate Tax Relief

Temporary estate, gift and generation skipping transfer tax relief. The EGTRRA phased out the estate and generation-skipping transfer taxes so that they were fully repealed in 2010 and lowered the gift tax rate to 35% and increased the gift tax exemption to $1 million for 2010. The new law sets the exemption at $5 million per person and $10 million per couple and a top tax rate of 35% for the estate, gift, and generation skipping transfer taxes for two years, through 2012. The exemption amount is indexed beginning in 2012. The new law is effective January 1, 2010, but allows an election to choose no estate tax and modified carryover basis for estates arising on or after January 1, 2010 and before January 1, 2011. The new law sets a $5 million generation-skipping transfer tax exemption and zero percent rate for the 2010 year.

Reunification. Prior to the EGTRRA, the estate and gift taxes were unified, creating a single graduated rate schedule for both. That single lifetime exemption could be used for gifts and/or bequests. The EGTRRA decoupled these systems. The new law reunifies the estate and gift taxes. The new law is effective for gifts made after December 31, 2010.

IV. Temporary Extension of Investment Incentives

Extension of bonus depreciation. Under prior law, businesses were allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Congress allowed businesses, beginning January 1, 2008 through December 31, 2009, to take an additional depreciation deduction allowance equal to 50% of the cost of the depreciable property placed in service in those years. Under the *Small Business Jobs Act of 2010,* this temporary increase in the depreciation deduction allowance was extended through December 31, 2010. The new law extends and temporarily increases this bonus depreciation provision for investments in new business equipment. For investments placed in service after September 8, 2010 and through December 31, 2011, the new law provides for 100% bonus depreciation. For investments placed in service after December 31, 2011 and through December 31, 2012, the new law provides for 50% bonus depreciation. The new law also allows taxpayers to elect to accelerate some AMT credits in lieu of bonus depreciation for taxable years 2011 and 2012.

Temporarily extend increase in the maximum amount and phaseout threshold under Section 179. Under prior law, a taxpayer with a sufficiently small amount of annual investment could elect to deduct the cost of certain property placed in service for the year rather than depreciate those costs over time. These amounts have been increased and extended several times on a temporary basis, including most recently as part of the Small Business Jobs Act which increased the thresholds to $500,000 and $2,000,000 for the taxable years beginning in 2010 and 2011. The new law extends the 2007 maximum amount and phase-out thresholds for taxable years beginning in 2012, at $125,000 and $500,000 respectively, indexed for inflation. The new law is effective for taxable years beginning after December 31, 2011.

V. Temporary Extension of Unemployment Insurance

Extension of unemployment insurance. The unemployment insurance new law provides a one-year reauthorization of federal UI benefits. The new law continues the Emergency Unemployment Compensation (EUC) benefits for one year. In addition, it continues 100% Federal Financing of Extended Benefits (EB) for one year, and makes changes to the EB look-back enabling states to continue to trigger on EB.

VI. Temporary Employee Payroll Tax Cut

Temporary reduction in employee-paid payroll taxes. Under prior law, employees paid a 6.2% Social Security tax on all wages earned up to $106,800 (in 2011) and self-employed individuals paid a 12.4% Social Security self-employment tax on all their self-employment income up to the same threshold. The new law provides a payroll/self-employment tax holiday during 2011 of two percentage points. This means employees will pay only 4.2% on wages and self-employment. Individuals will pay only 10.4% on self-employment income up to the threshold.

VII. Temporary Extension of Certain Expiring Provisions

Energy

Biodiesel and renewable diesel. The new law extends through 2011 the $1.00 per gallon production tax credit for biodiesel, as well as the small agri-biodiesel producer credit of 10¢ per gallon. The new law also extends through 2011 the $1.00 per gallon production tax credit for diesel fuel created from biomass.

Refined Coal. The new law extends through 2011 the placed-in-service deadline for qualifying refined coal facilities.

Energy-efficient new homes credit. The new law extends through 2011 the credit for manufacturers of energy-efficient residential homes.

Alternative fuels credit. The new law extends through 2011 the $0.50 per gallon alternative fuel tax credit. The new law does not extend this credit for any liquid fuel derived from a pulp or paper manufacturing process (i.e., black liquor).

Special rule for sales of electric transmission property. The new law extends through 2011 the present law deferral of gain on sales of transmission property by vertically integrated electric utilities to FERC-approved independent transmission companies.

Special rule for marginal wells. The new law extends through 2011 the suspension on the taxable income limit for purposes of depleting a marginal oil or gas well.

Section 1603. The new law extends for one year the start-of-construction deadline for the cash grant in lieu of tax credit program, established in Section 1603 of the *American Recovery and Reinvestment Act.*

Ethanol. The new law extends through 2011 the per-gallon tax credits and outlay payments for ethanol. The new law also extends through 2011 the existing 14.27¢ per liter (54¢ per gallon) tariff on imported ethanol and the related 5.99¢ per liter (22.67¢ per gallon) tariff on ethyl tertiary-butyl ether (ETBE).

Energy-efficient appliances. The new law extends through 2011 and modifies standards for the Section 45M credit for US-based manufacture of energy-efficient clothes washers, dishwashers, and refrigerators.

Energy-efficient existing homes. The new law extends through 2011 the credit under Section 25C of the Code for energy-efficient improvements to existing homes, reinstating the credit as it existed before passage of the *American Recovery and Reinvestment Act.* Standards for property eligible under Section 25C are updated to reflect improvements in energy efficiency.

Alternative vehicle refueling property. The new law extends through 2011 the 30% investment tax credit for alternative vehicle refueling property.

Individual Tax Relief

Above-the-line deduction for certain expenses of elementary and secondary school teachers. The new law extends for two years (through 2011) the $250 above-the-line tax deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and service), other equipment, and supplementary materials used by the educator in the classroom.

Deduction of state and local general sales taxes. The new law extends for two years (through 2011) the election to take an itemized deduction for state and local general sales taxes in lieu of the itemized deduction permitted for state and local income taxes.

Extension of provision encouraging contributions of capital gain real property for conservation purposes. The new law extends for two years (through 2011) the increased contribution limits and carryforward period for contributions of appreciated real property (including partial interests in real property) for conservation purposes.

Above-the-line deduction for qualified tuition and related expenses. The new law extends for two years (through 2011) the above-the-line tax deduction for qualified education expenses.

Extension of tax-free distributions from individual retirement plans for charitable purposes. The new law extends for two years (through 2011) the provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to $100,000 per taxpayer, per taxable year. The new law allows individuals to make charitable transfers during January 2011 and treat them as if made during 2010.

Estate tax look-through of certain Regulated Investment Company (RIC) stock held by nonresidents. The new law permits the look-through rule for RIC stock to apply to estates of decedents dying before January 1, 2012.

Refund and tax credit disregard for means tested programs. Current law ensures that the refundable components of the EITC and the Child Tax Credit do not make households ineligible for means-tested benefit programs and includes provisions stating that these tax credits do not count as income in determining eligibility (and benefit levels) in means-tested benefit programs, and also do not count as assets for specified periods of time. Without them, the receipt of a tax credit would put a substantial number of families over the income limits for these programs in the month that the tax refund is received. The new law disregards all refundable tax credits and refunds as income for means tested programs. The new law is effective for amounts received after December 31, 2009 and does not apply to amounts received after December 31, 2012.

Business Tax Relief

R&D credit. The new law reinstates for two years (through 2011) the research credit.

New Markets Tax Credit. The new law extends for two years (through 2011) the new markets tax credit, permitting a maximum annual amount of qualified equity investments of $3.5 billion each year. This is effective for calendar years beginning after December 31, 2009.

Employer wage credit for activated military reservists. The new law extends for two years (through 2011) the provision that provides eligible small business employers with a credit against the taxpayer's income tax liability for a taxable year in an amount equal to 20% of the sum of differential wage payments to activated military reservists.

Tax benefits for certain real estate developments. The new law extends for two years (through 2011) the special 15-year cost recovery period for certain leasehold improvements, restaurant buildings and improvements, and retail improvements.

Extension of enhanced charitable deduction for contributions of food inventory. The new law extends for two years (through 2011) the provision allowing businesses to claim an enhanced deduction for the contribution of food inventory.

Extension of enhanced charitable deduction for contributions of book inventories to public schools. The new law extends for two years (through 2011) the provision allowing C corporations to claim an enhanced deduction for contributions of book inventory to public schools (kindergarten through grade 12).

Extension of enhanced charitable deduction for corporate contributions of computer equipment for educational purposes. The new law extends for two years (through 2011) the provision that encourages businesses to contribute computer equipment and software to elementary, secondary, and post-secondary schools by allowing an enhanced deduction for such contributions.

Extension of expensing of environmental remediation costs. The new law extends for two years (through 2011) the provision that allows for the expensing of costs associated with cleaning up hazardous sites.

Extension of special tax treatment of certain payments to controlling exempt organizations. The new law extends for two years (through 2011) the special rules for interest, rents, royalties, and annuities received by a tax exempt entity from a controlled entity.

Treatment of certain dividends of Regulated Investment Companies (RICs). The new law extends the treatment of interest-related dividends and short-term capital gain dividends received by a RIC to taxable years of the RIC beginning before January 1, 2012.

Treatment of RIC investments as "Qualified Investment Entities" under FIRPTA. The new law extends the inclusion of a RIC within the definition of a "qualified investment entity" under Section 897 of the Tax Code through December 31, 2011.

Active financing exception. The new law extends for two years (through 2011) the active financing exception from Subpart F of the tax code.

Look-through treatment of payments between related controlled foreign corporations. The new law extends for two years (through 2011) the current law look-through treatment of payments between related controlled foreign corporations.

Extension of special rule for S corporations making charitable contributions of property. The new law extends for two years (through 2011) the provision allowing S corporation shareholders to take into account their pro rata share of charitable deductions even if such deductions would exceed such shareholder's adjusted basis in the S corporation.

Empowerment Zones. The new law extends for two years (through 2011) the designation of certain economically depressed census tracts as Empowerment Zones. Businesses and individual residents within Empowerment Zones are eligible for special tax incentives.

Work opportunity tax credit (WOTC). Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40% of the first $6,000 of wages paid to new hires of one of nine targeted groups. These groups include members of families receiving benefits under the Temporary Assistance to Needy Families (TANF) program, qualified veterans, designated community residents, and others. The WOTC program was set to expire August 31, 2011. The new law extends this provision through December 31, 2011 and would be effective for employees hired after date of enactment.

Premiums for mortgage insurance deductible 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 $1,000by 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 new law extends this provision for an additional year, through 2011.

Exclusion of small business capital gains. Generally, non-corporate taxpayers may exclude 50% of the gain from the sale of certain small business stock acquired at original issue and held for more than five years. For stock acquired after February 17, 2009 and on or before September 27, 2010, the exclusion is increased to 75%. For stock acquired after September 27, 2010 and before January 1, 2011, the exclusion is 100% and the AMT preference item attributable for the sale is eliminated. Qualifying small business stock is from a C corporation whose gross assets do not exceed $50 million (including the proceeds received from the issuance of the stock) and who meets a specific active business requirement. The amount of gain eligible for the exclusion is limited to the greater of ten times the taxpayer's basis in the stock or $10 million of gain from stock in that corporation. The new law extends the 100% exclusion of the gain from the sale of qualifying small business stock that is acquired before January 1, 2012 and held for more than five years.

Disaster Relief Provisions

Extension of increased rehabilitation credit for historic structures in the Gulf Opportunity Zone. The new law extends for two years (through 2011) the increased rehabilitation credit for qualified expenditures in the Gulf Opportunity Zone.

One-year extension of Gulf Opportunity Zone low-income housing placed-in-service date. The Gulf Opportunity Zone Act of 2005 provided an additional allocation of low-income housing tax credits to the Gulf Opportunity Zone in an amount equal to the product of $18.00 multiplied by the portion of the state population which is in the Gulf Opportunity Zone. The additional allocations were made in calendar years 2006, 2007, and 2008, and required that the properties be placed in service before January 1, 2011. The new law extends that placed-in-service date for one year (through 2011).

Extension of Tax-Exempt Bonds for the Gulf Opportunity Zone. Under prior law, bonds were authorized to help rebuild areas devastated by Hurricane Katrina and must be issued by December 31, 2010. The amendment provides one additional year to utilize these bonds, through December 31, 2011.

Temporary Depreciation Allowance for Gulf Opportunity Zone Property. The new law extends for two years, through 2011, an additional depreciation deduction claimed by businesses equal to 50% of the cost of new property investments made in the Gulf Opportunity Zone. The provision makes expenditures in 2011 eligible provided the property is placed in service by December 31, 2011.