



## Tax Extenders and Alternative Minimum Tax Relief Act of 2008

On October 3, 2008, following weeks of contentious negotiations between the House and Senate, Congress approved and the President signed into law a comprehensive tax extenders bill as part of H.R. 1424, the *Emergency Economic Stabilization Act of 2008*. For more than a year, businesses and industry groups have been asking Congress to reauthorize dozens of expiring tax credits for business initiatives such as research and community development and alternative energy sources, which proponents argued would provide both tax relief and job creation during a period economic turmoil.

This legislative alert seeks to provide analysis of the primary tax provisions contained within the Act.

The highlight of the tax package is a one-year "AMT patch" that prevents the Alternative Minimum Tax from affecting 22 million Americans. The one-year AMT patch will cost \$76.7 billion in Fiscal Year 2009, but is expected to raise nearly \$15 billion the following year for a net budget impact of \$61.8 billion. In addition to the AMT fix, the tax package reauthorizes dozens of expired and expiring tax credits totaling more than \$48 billion over ten years.

In particular, the Act extends through 2009 approximately \$11.5 billion of individual tax credits, including the following:

- A sales tax deduction for individuals living in states and localities without state income taxes, costing \$3.3 billion over 10 years.
- \$4,000 student deduction for tuition and other related expenses, costing \$5.3 billion over ten years.
- \$500/individual and \$1,000/joint return standard deductions for non-itemizers affected by real property taxes, costing \$1.5 billion over 10 years.
- \$250 teachers' deduction for out-of-pocket expenses, costing \$410 million over 10 years.
- A rule allowing up to \$100,000 in tax-free payments for those 70 ½ or older that divert money from their individual retirement accounts towards charitable contributions, costing \$795 million over ten years.

In terms of measures aimed at enhancing business tax relief, the Act provides \$37.9 billion in extender provisions, including two critical extensions through 2009:

- a business allowance for retail owners and new restaurants to recover the costs of property improvements; and

- a popular research and development tax credit that would reimburse 20 percent of a taxpayer's qualified annual research expenses that exceed the taxpayer's annual base amount and increase the alternative simplified credit from 12 percent to 14 percent for 2009.

The total value of both credits is a combined \$27.8 billion over ten years.

Additional one-year business tax-extensions include:

- Deferral for taxes paid by a U.S. parent on a foreign subsidiary engaged in banking, financing, or similar business if such subsidiary conducts a certain amount of business activity, costing \$3.97 billion over ten years.
- The "New Markets Tax Credit" granted to businesses undertaking certain investments in community development entities, costing \$1.3 billion over ten years.
- Deferral for certain payments such as dividends, interest, rents, and royalties between commonly foreign corporations (CFC)—also known as look through treatment, costing \$611 million over ten years.
- And various extensions aimed at certain occupations and minority groups such as the American Samoa Economic Development Credit, Mine Rescue Team Training Credit, and the Indian Employment Credit.

The Act includes certain renewable energy provisions, including:

- An extension and modification of the Section 45 "Production Tax Credit" for facilities that produce energy from alternative sources such as wind and refined coal through 2009; and open and closed-loop biomass, geothermal, hydro-power, landfill gas, trash combustion facilities, and small irrigation through 2010. Most importantly, this legislation does not cap the available tax credit claimed.
- An extension through 2016 of a 30% tax credit for investment in solar energy and certain fuel cell properties, a 10% tax credit for investment in microturbines, and a tax credit for residential solar property.

More detail on the renewable energy provisions of the *Emergency Economic Stabilization Act of 2008* may be found in the Blank Rome Energy Update "Energy Improvement and Extension Act of 2008."

In its Statement of Administration Policy, the White House expressed support for the tax provisions included in H.R. 1424, the *Emergency Economic Stabilization Act of 2008*, stating that "extending current law by enacting this legislation is vital for businesses and individuals who expect consistency and predictability in the tax code." ■



**For more information please contact:**

J. C. Boggs  
Boggs@BlankRome.com

Michael Semes  
Semmes@BlankRome.com

or

Joe Gulant  
Gulant@BlankRome.com