

Emergency Economic Stabilization Act of 2008

On Friday October 3, 2008 President Bush signed into legislation the **EMERGENCY ECONOMIC STABILIZATION ACT OF 2008**. This law, the largest taxpayer intervention since World War II, is designed to stabilize the tightening credit markets in the US economy. This law is composed of two primary sections:

Section I: \$700 billion appropriated to purchase “troubled assets” in the credit market.

Section II: \$150 billion appropriated for tax relief through a 2008 Alternative Minimum Tax (AMT) patch, an extensive package of tax extenders, energy incentives, disaster relief, and more.

Because this legislation consists of over 450 pages, a complete synopsis is beyond the scope of our monthly newsletter. However, some of the key elements of the law are:

Section I: The Troubled Assets Relief Program (TARP)

Congress has approved \$250 billion in immediate funds to shore up the credit markets through the purchase of troubled assets in either a direct purchase of troubled assets or the acquisition through auction purchases. An additional \$100 billion is available at the discretion of the Secretary of the Treasury, and the final \$350 billion is available for appropriation by Congressional Approval.

The funds and subsequent purchases of these troubled assets are to be managed by the Department of the Treasury. Oversight will be provided by:

1. A newly formed Financial Stability Oversight Board
2. Congressional Oversight Board

In addition, the rescue package includes three major tax-related provisions:

1. Executive Compensation—compensation standards will be set by the Treasury Department to curb excessive executive compensation of those companies that are directly assisted by the government through the TARP program. In addition, companies participating in TARP auctions must agree to limit “golden parachutes” payments. In a direct purchase situation, “golden parachutes” are prohibited. Congress also gave the Treasury Department “claw-back” power in a direct purchase situation. The government may recover a bonus or other incentive paid to a senior executive of a company participating in the rescue package that had been paid on statements of earnings, gains, etc. that are later shown to be materially inaccurate.

2. Fannie Mae and Freddie Mac Stock Losses—under the rescue plan, community banks and other qualifying financial institutions that hold preferred stock in Fannie Mae and Freddie Mac may treat their losses in these two institutions as ordinary losses. This treatment applies to preferred stock that was held on September 6, 2008 or sold or exchanged on or after January 1, 2008 and before September 7, 2008. This provision is not available to individuals.
3. Extended Exclusion for Homeowners—the rescue plan extends the **MORTGAGE FORGIVENESS DEBT RELIEF ACT OF 2007** through 2012. This law excludes from federal tax the cancellation of indebtedness income for those homeowners whose home has been foreclosed on and sold for less than the borrowers' outstanding mortgage debt. In addition, this law also helps homeowners whose mortgage may have been reduced through a restructuring (also known as a mortgage workout).

Section II: Individual and Business Tax Incentives

In addition to the Troubled Asset Relief Program (TARP), the new law includes approximately \$150 billion in tax incentives to individuals and businesses. Some of the key provisions include:

1. AMT Patch—this law includes a 2008 patch to the Alternative Minimum Tax. Without this patch some 20 million taxpayers would be forced to pay higher taxes imposed by the Alternative Minimum Tax. A patch is necessary each year to adjust the Alternative Minimum Tax Exemption because when the law was initially enacted it was not adjusted for inflation. Under the new law's patch for the 2008 tax year, the AMT exemption amounts are \$69,950 for married couples filing jointly and surviving spouses, \$46,200 for single taxpayers and heads of households, and \$34,975 for married couples filing separately. Instead of facing up to the need to find a permanent solution to the AMT, Congress must pass a patch each year to provide AMT relief to many middle income taxpayers who might otherwise be required to pay the additional taxes imposed by the AMT.
2. State and Local Sales Tax Deduction—the new law extends the option of deducting state and local general sales taxes in lieu of state and local income taxes through December 31, 2009.
3. Higher Education Tuition Deduction—the new law extends the above-the-line higher education tuition deduction through December 31, 2009. The deduction allows eligible taxpayers to deduct the costs of qualified higher education expenses paid during the year for themselves, a spouse, or a dependent provided that the taxpayer does not file married filing separately.
4. Additional Standard Deduction Real Property Taxes—the new law extends the additional standard deduction for real property taxes for non-itemizers through December 31, 2009. Congress authorized a maximum \$500 additional standard deduction (\$1,000 for joint filers) in the Housing Assistance Tax Act of 2008, but, originally made it available only for the 2008 tax year.
5. Teachers' Classroom Expense Deduction—the above-the-line deduction of up to \$250 of certain out-of-pocket classroom expenses is extended through December 31, 2009 for qualified educators.

6. Tax-Free Distributions from IRAs for Charitable Purposes—the new law permits taxpayers to make tax-free distributions from IRAs for charitable purposes through December 31, 2009. The maximum contribution limit for 2008 and 2009 is \$100,000.

In addition, to the individual tax incentives above, the new law includes a host of incentives targeted to businesses, several of which revise as well as extend tax benefits. Among the most significant are:

1. Revised Research Tax Credit
2. Enhanced depreciation for leasehold and restaurant improvements
3. New Markets Tax Credit
4. Hurricane Katrina Relief

Included also in the new law, is the extension of a host of energy tax incentives, some targeted to consumers and others to producers and manufacturers. The primary ones are:

1. Energy Efficiency and Property –The Code Sec. 179D deduction for energy efficient commercial buildings is extended through December 31, 2013. The Code Sec. 25D residential energy efficient property credit is extended through December 31, 2016. Congress also reinstated the Code Sec. 25C residential energy property credit for property placed in service in 2009.
2. Renewable Energy—Congress extended the credit for producing electricity from qualified wind facilities through December 31, 2009 and the credits for electricity through biomass and other qualifying renewable sources through September 30, 2011. The credit for solar energy, fuel cell, and microturbine property is extended through December 31, 2016.
3. Other energy provisions relate to:
 - a. Coal gasification investment credit
 - b. Clean renewable energy bonds
 - c. Steel industry fuel
 - d. Alternative fuels credit
 - e. Alternative refueling stations credit
 - f. Percentage depletion for marginal wells
 - g. Refinery expensing
 - h. Excise tax on coal to fund Black Lung Disability Trust
 - i. Plug in electric drive vehicles
 - j. Non-hydrogen alternative fuel refueling property

The new law also provides temporary, but, significant, tax relief to victims of the severe storms, tornadoes, and flooding that swept through the Midwest in 2008 and, to a lesser extent, victims of Hurricane Ike in Texas.

Included in the Section II \$150 billion provision, are also several billion designated as “earmarked projects”. Earmarks are the subject of considerable debate, primarily because they benefit a relatively few at the expense of all of taxpayers.

Most of the best financial minds out there agree that something needed to be done to address the crisis facing our credit markets. They also agree that the severity of the problem is at this point unclear and that further steps might need to be taken to bring stability back to our financial sector.

The questions on the minds of many Americans today are; how did we get to this point in our economic history and how long will it take to stabilize our economy. The answers to these questions are not simple and may take years to unravel and correct. However, Fox News presented a special entitled “**Saving Our Economy—What’s Next**” that did an excellent job in addressing these questions. In my opinion, every taxpayer needs to see this special.

At this point, I am uncertain as to Fox News plans to re-air this special. I would encourage you to email them to request that they re-air this broadcast as many times as possible to provide this information to as many people as possible, because, unless we learn the lessons of past mistakes we are destined to repeat them.

Till Next Time,

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