



TAX ALERT

Emergency Economic Stabilization Act of 2008

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While the passage of the financial “bailout” legislation has dominated the recent headlines, there are a number of tax aspects of the *Emergency Economic Stabilization Act of 2008 (Act)* that will be of interest to our clients. We’ve summarized some of them below.

What to Do with Your Money Now?

The impact of the current credit crisis has left many individuals and businesses wondering where their cash will be safest. They are no longer pursuing the highest yield on their short-term cash. Instead, the focus is on safety and the ability to access cash when it is needed.

One of the broad reaching components to the *Act* was the increase of insurance coverage by the Federal Deposit Insurance Corporation (FDIC) from \$100,000 to \$250,000. This increased coverage is effective now until December 31, 2009. Additional information on these enhancements can found at www.fdic.gov. Investors may be well served to seek instruments that offer FDIC insurance to the extent practical. Many brokerage institutions offer account holders the ability to purchase Certificates of Deposit issued by FDIC insured banks. This approach may serve as more convenient way to diversify bank deposit accounts rather than to open accounts directly with a number of different banks.

In addition to seeking the increased FDIC insurance, investors should consider spreading assets among several financial institutions. Also, focus on exactly what type of short term instruments in which you are invested. For example, a money market fund which invests primarily in short-term U.S. Treasury obligations may be more attractive, from a safety point of view, than a money market fund which invests in various corporate bonds.

Account holders should talk with their financial advisors about the particular aspects of their holdings and other related topics not addressed here such as SIPC coverage, the ability for their money market fund to maintain a \$1 share price, etc.

Tax Aspects of the Act

A number of popular tax provisions that were set to expire as of December 31, 2008 were extended as part of *Act*. Some of these provisions are:

- Increased exemption for Alternative Minimum Tax (AMT) purposes. The *Act* increases the AMT exemption for joint filers to \$69,950 and single taxpayers to \$46,200. While this increase doesn’t solve the AMT problem, it helps keep the AMT at bay for some taxpayers.
- Individuals over age 70 ½ can continue to make charitable contributions

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directly from their IRA, rather than take the funds out as a taxable distribution and make a corresponding charitable deduction.

- Tax credit for increasing research expenditures has been extended through 2009.
- The write off of tenant leasehold improvements over a 15 year period has been renewed.
- Many of the tax credits for solar and other alternative energy credits have been extended. In addition, the previous \$2,000 credit limit for residential solar energy credits has been repealed.
- Amounts spent for certain environmental remediation purposes will continue to be eligible to be expensed rather than capitalized.

Special Relief for Incentive Stock Options

When an employee exercises an Incentive Stock Option (ISO), the difference between the fair market value on the date of exercise and the amount paid to exercise the option is considered taxable income for AMT purposes, but not for regular tax purposes. As a result, many taxpayers were surprised to find a significant tax liability due to AMT upon the exercise of an ISO. This tax liability imposed a particular hardship because in most of these cases, there was no cash received by the taxpayer to pay this tax. The tax was on “phantom income”. In an unusual fix, the *Act* waives any amount of tax, interest and penalty that is attributable to the AMT liability associated with an ISO exercise arising from years prior to 2008 that are still outstanding as of October 3, 2008.

In other words, if a taxpayer exercised an ISO in 2006, causing a \$10,000 tax to be due and as of October 3, 2008, the \$10,000 was still not paid but had grown to \$14,000 when interest and penalties are added to the tax due, the entire \$14,000 is abated under the *Act*.

For taxpayers who paid the \$10,000 when it was due on April 15, 2007, the Act enhances the AMT credit which may provide a benefit in future tax years.

Taxpayers who currently owe the Internal Revenue Service taxes, penalties or interest related to pre-2008 ISO exercises should contact our office immediately prior to paying any additional amounts to the IRS to determine if this provision is applicable.

Other Tax Aspects of the Act

- Mandatory basis reporting by brokers for stocks **purchased** after December 31, 2010. Once this provisions takes effect, individuals will no longer be faced with the sometimes daunting task of finding records to support their cost basis when a stock is sold. This benefit, however, will only impact stocks purchased after December 31, 2010.
- Bicycle tax allowance. Employers can reimburse employees up to \$20 / month for costs of bicycling to work.

The above represents a summary of the new rules and does not address all of the details contained in the new legislation. For clarification or more information on these and other tax matters, contact your W&G tax advisor at 732-846-3000.

Any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.