

# Executive's Tax & Management Report

Wealth-building strategies plus  
late-breaking tax news

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## 2010 Inflation Adjustments Offer No Surprises

The IRS has released the official 2010 income brackets and tax-related limitations, which have been adjusted for inflation [Rev. Proc. 2009-50, IRB 2009-45, Nov. 9, 2009].

By law, more than three dozen tax benefits are adjusted annually for inflation. With inflation at a minimum, however, many of the figures that typically rise from year to year will remain at 2009 levels. Others will increase only slightly. The figures will affect 2010 federal tax returns, which most taxpayers will file in early 2011, according to the IRS.

**KEY CHANGES FOR 2010** ▶ For heads of households, the standard deduction will increase \$50 to \$8,400, but the standard deduction will remain the same for other taxpayers (\$11,400 for married couples filing jointly and sur-

viving spouses and \$5,700 for single filers and married couples filing separately).

Certain tax-bracket thresholds for each filing status will inch upward in 2010. For example, for a married couple filing a joint return, the taxable-income threshold separating the 15-percent bracket from the 25-percent bracket will be \$68,000, only a \$100 increase compared to 2009.

The American Recovery and Reinvestment Act of 2009 (ARRA) [P.L. 111-5] calls for temporary increases in the following items:

- The refundable portion of the child tax credit
- The amount of the Hope Scholarship Credit and the threshold phaseout for credit amounts

### IRS Has Nearly 108,000 Undeliverable Tax Refunds

For years, the IRS has encouraged taxpayers to receive their federal income tax refunds *via* direct deposit. The fact that 107,831 refund checks have been returned to the IRS this year due to mailing address errors certainly supports that recommendation.

The combined total of the undeliverable refund checks equals \$123.5 million, with an average of \$1,148 per check.

An increasing number of taxpayers are using direct deposit

for their tax refunds. In fact, nearly 73 million of the 110 million refunds issued this year were electronically deposited into taxpayers' accounts.

In addition, a record 95 million federal income tax returns have been filed electronically during 2009.

*To update your address and check on the status of any refunds due to you, use the "Where's My Refund?" tool on IRS.gov or call 1-800-829-1954.*

## Executive's Tax & Management Report

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- The earned income credit for certain taxpayers
- The amount excludible from gross income for certain employer-provided transportation fringe benefits
- Dollar limitations for expensing certain depreciable assets

The personal exemption remains at \$3,650 in 2010. However, the IRS did not provide phaseout income ranges, because it says the phaseout of the personal exemption amount under Internal Revenue Code Section ("Code Sec.") 151(d)(3) does not apply to any tax year beginning after December 31, 2009, and before January 1, 2011.

Similarly, the overall limitation on itemized deductions under Code Sec. 68 does not apply to the 2010 tax year.

### Tax Year 2010

Tax benefits that are subject to inflation adjustments are highlighted in "Clip-and-Save Tax Facts for 2010" on page 4. Categories include the following:

- Tax rate tables
- Standard deductions
- Personal exemptions
- Itemized deductions

Here is an overview of some of the other items subject to inflation adjustments:

- **Kiddie tax.** Net unearned income earned by some minor children must be taxed at their parent's marginal rate, if the income is above a certain level. Again in 2010, taxpayers may reduce by \$950 the net unearned income reported on the child's return that is subject to the kiddie tax. If the child's gross income is more than \$950 but less than \$9,500, parents may elect to include their child's gross income in the parents' gross income.

- **Kiddie tax AMT exemption.** There is an alternative minimum tax (AMT) exemption for children who are subject to the kiddie tax. For 2009, the AMT exemption may not exceed the sum of the child's earned income for the tax year plus \$6,700. That formula will remain the same in 2010.
- **Adoption credit or assistance.** Employees eligible for their employer's qualified adoption assistance program may be reimbursed tax free for adoption-related expenses. For 2010, the maximum amount that can be excluded from an employee's gross income in connection with his or her adoption of a child is \$12,170, up \$20 from 2009. The maximum credit allowed is the amount of the unreimbursed qualified adoption expenses—up to \$12,170.

Both the exclusion and the credit begin to phase out for taxpayers with modified adjusted gross income (AGI) that exceeds \$182,520. Phaseout is completed for those with modified AGI of at least \$222,520.

- **Hope Scholarship, American Opportunity and Lifetime Learning credits.** Under the ARRA, the American Opportunity Tax Credit temporarily modifies the existing Hope Scholarship Credit, making it available to a broader range of taxpayers for 2010, including many with higher incomes and those who owe no tax. The maximum allowable Hope credit for 2010 is \$2,500, a jump from \$1,800 in 2009. The specific amount is calculated by adding 100 percent of qualified tuition and related expenses (up to \$2,000) to 25 percent of the expenses over \$2,000 but less than \$4,000. Tuition, related fees, books and

other required course materials generally qualify for the credit.

For 2010, the Hope Scholarship Credit is reduced when a taxpayer's modified AGI exceeds \$80,000 (\$160,000 for a joint return), and phaseout for the Lifetime Learning Credits begins when a taxpayer's AGI is at least \$50,000 (\$100,000 for a joint return).

■ **Interest on education loans.** Again this year, the \$2,500 maximum deduction for interest paid on qualified education loans begins to phase out when modified AGI exceeds \$60,000 (\$120,000 for joint returns). The deduction is completely eliminated when modified AGI reaches at least \$75,000 (\$150,000 for joint returns).

■ **Qualified transportation fringe.** Employers have the option of providing certain transportation fringe benefits tax free to their employees (*e.g.*, transit passes, tokens and vouchers; transportation in a commuter highway vehicle operated or hired by the employer; and employer-provided or reimbursed parking). The IRS sets limits on the value of the exclusions. Under the ARRA, the exclusion for transit passes and transportation in a commuter highway vehicle temporarily jumps from \$120 to \$230 per month, which is also the monthly limit for qualified parking.

■ **U.S. savings bonds income.** Taxpayers may exclude from their income the interest earned on certain U.S. savings bonds that are used to pay qualified higher education expenses. In 2010, savings bond interest exclusion starts to phase out when modified AGI is \$105,100 or more for joint filers and \$70,100 for others. This exclusion is completely phased out

with modified AGI of at least \$135,100 for joint filers and \$85,100 for other returns.

■ **Election to expense certain depreciable assets.** For 2010, the maximum aggregate cost of any Code Sec. 179 property a taxpayer may elect to treat as an expense is \$134,000. That limitation is reduced (but not below zero) by the amount by which the cost of the Code Sec. 179 property placed in service during 2010 exceeds \$530,000.

■ **Long-term care premiums.** The cost of long-term insurance premiums may be treated as deductible medical expenses (subject to the 7.5 percent of AGI floor). The deductible amount, however, is limited, based on the taxpayer's age at the end of the tax year. For 2010, the deduction limits are:

Age 40 or less . . . . .	\$330
Age 41-50 . . . . .	\$620
Age 51-60 . . . . .	\$1,230
Age 61-70 . . . . .	\$3,290
Over age 70 . . . . .	\$4,110

■ **Medical savings accounts.** Certain individuals who have high-deductible health insurance plans are entitled to set aside pre-tax dollars in medical savings accounts to pay out-of-pocket medical expenses.

For taxpayers with self-only coverage in 2010, a "high-deductible health plan" is defined as a health plan that has an annual deductible between \$2,000 and \$3,000, as well as up to \$4,050 in annual out-of-pocket expenses (other than for premiums) for covered benefits.

Family coverage has higher thresholds. For 2010, a family plan qualifies as a high-deductible health plan if the annual deductible is between \$4,050 and \$6,050, and the annual out-of-pocket expenses (other than for premiums) for covered benefits is \$7,400 or less.

■ **Large gifts received from foreign persons.** Individuals who receive gifts from certain foreign persons may be required to report those gifts if the aggregate value of gifts received in a tax year is greater than \$14,165.

■ **Foreign earned income tax exclusion.** For 2010, the foreign earned income exclusion amount for citizens or residents of the United States living abroad is \$91,500.

■ **Tax responsibilities of expatriation.** "Covered expatriates" are subject to income tax on the net unrealized gain in their property as if the property had been sold for its fair market value on the day before the expatriation date. The amount of gain includible in their gross income is reduced by \$627,000 (but not below zero) for tax years beginning in 2010.

### Calendar Year 2009

Rev. Proc. 2009-50 generally applies to *tax* years beginning in 2010. In some cases, however, the revenue procedure applies to transactions or events occurring in the *calendar* year. Those include the following:

■ **Expatriation to avoid tax.** An individual with "average annual net income tax" exceeding \$145,000 for the five tax years ending before the date of the loss of U.S. citizenship is subject to tax.

■ **Gift tax exclusion.** The first \$13,000 of gifts to any person (other than gifts of future interests in property) is not included in the total amount of taxable gifts made during calendar year 2010. In general, gifts to a spouse are not taxable. The IRS, however, does limit deductions for gifts to a spouse who is not a U.S. citizen. For 2010, the first \$134,000 of gifts to a noncitizen spouse is exempt from gift tax. ■



# Clip-and-Save Tax Facts for 2010

## Tax Rate Tables

### Married Filing Jointly and Surviving Spouses

<i>If taxable income is:</i>	<i>The regular tax is:</i>
Not over \$16,750	10% of the taxable income
Over \$16,750 but not over \$68,000	\$1,675 plus 15% of the excess over \$16,750
Over \$68,000 but not over \$137,300	\$9,362.50 plus 25% of the excess over \$68,000
Over \$137,300 but not over \$209,250	\$26,687.50 plus 28% of the excess over \$137,300
Over \$209,250 but not over \$373,650	\$46,833.50 plus 33% of the excess over \$209,250
Over \$373,650	\$101,085.50 plus 35% of the excess over \$373,650

### Heads of Household

<i>If taxable income is:</i>	<i>The regular tax is:</i>
Not over \$11,950	10% of the taxable income
Over \$11,950 but not over \$45,550	\$1,195 plus 15% of the excess over \$11,950
Over \$45,550 but not over \$117,650	\$6,623.50 plus 25% of the excess over \$45,550
Over \$117,650 but not over \$190,550	\$24,260 plus 28% of the excess over \$117,650
Over \$190,550 but not over \$373,650	\$44,672 plus 33% of the excess over \$190,550
Over \$373,650	\$105,095 plus 35% of the excess over \$373,650

### Single Filers

<i>If taxable income is:</i>	<i>The regular tax is:</i>
Not over \$8,375	10% of the taxable income
Over \$8,375 but not over \$34,000	\$837.50 plus 15% of the excess over \$8,375
Over \$34,000 but not over \$82,400	\$4,681.25 plus 25% of the excess over \$34,000
Over \$82,400 but not over \$171,850	\$16,781.25 plus 28% of the excess over \$82,400
Over \$171,850 but not over \$373,650	\$41,827.25 plus 33% of the excess over \$171,850
Over \$373,650	\$108,421.25 plus 35% of the excess over \$373,650

### Married Filing Separately

<i>If taxable income is:</i>	<i>The regular tax is:</i>
Not over \$8,375	10% of the taxable income
Over \$8,375 but not over \$34,000	\$837.50 plus 15% of the excess over \$8,375
Over \$34,000 but not over \$68,650	\$4,681.25 plus 25% of the excess over \$34,000
Over \$68,650 but not over \$104,625	\$13,343.75 plus 28% of the excess over \$68,650
Over \$104,625 but not over \$186,825	\$23,416.75 plus 33% of the excess over \$104,625
Over \$186,825	\$50,542.75 plus 35% of the excess over \$186,825

## Estates and Trusts

<i>If taxable income is:</i>	<i>The regular tax is:</i>
Not over \$2,300	15% of the taxable income
Over \$2,300 but not over \$5,350	\$345 plus 25% of the excess over \$2,300
Over \$5,350 but not over \$8,200	\$1,107.50 plus 28% of the excess over \$5,350
Over \$8,200 but not over \$11,200	\$1,905.50 plus 33% of the excess over \$8,200
Over \$11,200	\$2,895.50 plus 35% of the excess over \$11,200

## Standard Deduction

<i>Filing Status</i>	<i>2010</i>	<i>2009</i>
Married filing jointly and surviving spouses	\$11,400	\$11,400
Heads of household	\$8,400	\$8,350
Single filers	\$5,700	\$5,700
Married filing separately	\$5,700	\$5,700
Dependents	\$950 or \$300 plus earned income (whichever is greater)	\$900 or \$300 plus earned income (whichever is greater)

### *Additional standard deduction—married:*

65 or over or blind	\$1,100	\$1,100
65 or over and blind	\$2,200	\$2,200

### *Additional standard deduction—unmarried, not surviving spouse:*

65 or over or blind	\$1,400	\$1,340
65 or over and blind	\$2,800	\$2,800

## Personal Exemptions

	<i>2010</i>	<i>2009</i>
Personal exemption amount:	\$3,650	\$3,650
<i>Exemption phase-out begins:</i>		
Married filing jointly and surviving spouses	*N/A	\$250,200
Heads of household	*N/A	\$208,500
Single filers	*N/A	\$166,800
Married filing separately	*N/A	\$125,100
<i>Exemption phase-out completed:</i>		
Married filing jointly and surviving spouses	*N/A	\$372,700
Heads of household	*N/A	\$331,000
Single filers	*N/A	\$289,300
Married filing separately	*N/A	\$186,350

## Itemized Deductions

	<i>2010</i>	<i>2009</i>
<i>Itemized deduction phase-out begins:</i>		
Most taxpayers	**N/A	\$166,800
Married filing separately	**N/A	\$783,400

\* Phaseout ranges for the personal exemption are not given, because the phaseout of the personal exemption amount under Code Sec. 151(d)(3) does not apply to any tax year beginning after December 31, 2009, and before January 1, 2011, according to the IRS.

\*\* Since the overall limitation on itemized deductions under Code Sec. 68 does not apply to the 2010 tax year, the limitation on itemized deductions is not included here.

# No Cost-of-Living Adjustment for Social Security

For the first time since monthly Social Security and Supplemental Security Income benefits went into effect nearly 35 years ago, there will be no automatic cost-of-living adjustment (COLA) for those receiving benefits.

## A Sign of the Times

Under federal law, Social Security and Supplemental Security Income rises automatically each year, as long as there is an increase in the Bureau of Labor Statistics' *Consumer Price Index for Urban Wage Earners and Clerical Workers* (CPI-W) from the third quarter of the previous year to the third quarter of the current year, the Social Security Administration explains.

There was no increase in the CPI-W this year. In fact, the CPI-W declined from the third quarter of 2008 to the third quarter of 2009. However, Social Security old age and disability benefits will not be reduced. "Social Security law provides for a cost-of-living adjustment, or COLA, based on changes in the consumer price index for urban wage earners and clerical workers from the third quarter of one year to the next, but the adjustment can only be positive," said Avram Sacks, J.D., Social Security law analyst with CCH ([hr.cch.com](http://hr.cch.com)), a leading provider of tax, benefits and payroll law information and software and publisher of EXECUTIVE'S TAX & MANAGEMENT REPORT.

He continued, "The decrease in the index means that benefits will not rise in 2010—the first time there's been no increase since the COLA was introduced in 1975."

Sacks said a COLA increase in 2011 is unlikely, because the starting point for determining a possible COLA in that year will

remain the third quarter of 2008. "To produce an increase next year, we'd have to see a rise in the cost of living that first wiped out this year's decline and then increased from last year's level."

"If it's any consolation, for 2009, beneficiaries saw a significant increase in their monthly checks over 2008," he added. "Last year at this time, inflation mandated a 5.8 percent increase—the largest percentage increase since 1982. What's more, for most beneficiaries, the Medicare Part B premium did not rise for 2009."

More than 57 million benefit recipients received a check from the federal government this year, under economic stimulus legislation, and President Obama has proposed distributing another \$250 check for next year, according to Sacks. "This lump sum would work out to be the equivalent of about a 1.8 percent increase in the monthly check for the average retired worker," he said.

## Medicare Part B Premium

Most beneficiaries will not see an increase in the Medicare Part B premium, due to a "hold harmless" provision that blocks premium increases when benefits do not rise. Only a relatively small number of high-income individuals will pay a higher premium, along with new enrollees or beneficiaries who have not yet started paying these premiums.

"The increase in Medicare Part B Premiums for those affected might be significant, because, in effect, the law requires them to make up for the lack of increase for the large majority of beneficiaries," Sacks said, noting that legislation has been proposed to offer some relief to those affected.

## Earnings Limits

By statute, retirement earnings test exempt amounts will remain at 2009 levels next year, since there is no COLA, the Social Security Administration explained.

Workers who are younger than the "full retirement age" (*i.e.*, age 66 in 2010) and are receiving Social Security benefits can earn a maximum of \$1,180 per month—up to \$14,160 per year—before their benefits are reduced. For every \$2 in 2009 earnings above that limit, the SSA will withhold \$1 in Social Security benefits.

However, for those reaching full retirement age in 2010, a modified test applies. Specifically, they may earn up to \$3,140 in each month before they reach full retirement age without being subject to reduced benefits, CCH reports. "Once they reach full retirement age, benefits are no longer subject to any retirement test."

## No Increase in FICA Taxes

Federal law mandates that the maximum amount of earnings subject to the Social Security tax (*i.e.*, FICA) will remain the same when there is no COLA, so the threshold will be \$106,800 again next year.

As a result, the amount of FICA tax deducted from paychecks next year will not be any higher than the tax on identical earnings this year, according to CCH.

Without that prohibition, Sacks estimates that the wage base would have risen to \$109,200 for 2010.

He cautions taxpayers to be prepared for a hefty increase in 2012, however. "Although there is no wage base increase for 2010, and there likely will not be one for 2011, either, based on projections by the Social

Security Administration, the first year that we will likely see a benefit increase—2012—will also be a year in which we will see a huge increase in the

wage base,” Sacks said. “This is because the wage base formula for that year will take into account the cumulative increase in national average wages

during the period wage base increases were barred due to the lack of a benefit increase.”  
*For more information, visit [www.ssa.gov](http://www.ssa.gov).* ■

## COMPENSATION & BENEFITS

# Will Hiring, Pay Freezes End Soon?

About half of employers that froze salaries and hiring within the past year are warming up to the idea of reversing course within six months. However, most do not plan to restore pay cuts or reverse freezes for executives, according to separate surveys conducted this fall by Watson Wyatt.

### Good News in 2010 for Many Workers

Since the economic crisis began, 56 percent of surveyed companies have implemented salary and hiring freezes, and 25 percent have reduced their 401(k) match contributions, according to Watson Wyatt.

However, in an October update to an ongoing series of surveys, “Effect of the Economic Crisis on HR Programs,” the firm found that 54 percent of participating companies that froze salaries expect to unfreeze them within six months. That marks a significant jump from 33 percent of employers reporting such plans in August and 17 percent in June.

Forty-nine percent also plan to reverse hiring freezes at least partially within six months, compared with 38 percent in the August survey.

In the current survey, 96 percent of companies reported having made offers to new hires in the past three months, and 93 percent expect to make job offers within three months. Despite that good news, however, layoffs are still anticipated at approximately one-fifth of companies in the remainder of 2009 or in 2010.

The survey also uncovers some promising news for employees

whose employers previously reduced their 401(k) match contributions. Thirty-five percent plan to reverse those reductions by April, compared to 24 percent in August who planned to reverse such reductions within six months and only five percent in June who planned to do so.

Among companies expecting to reinstate a 401(k) or 403(b) match:

- Seventy percent plan to change it back to the original level.
- Thirteen percent expect to reinstate the match at a new, lower level.
- Seventeen percent anticipate varying the match by year, based on company profits.

“The general economic picture right now is definitely brighter than it was just a few months ago,” said Laura Sejen, global director of strategic rewards consulting at Watson Wyatt. “However, the recovery is uneven and most employers aren’t fully convinced that the improvements they’ve seen are here to stay. While many plan to hire workers over the next few months, they remain concerned about their ability to attract and retain the right people.”

In fact, 65 percent of surveyed employers are more concerned about the retention of critical-skill and top-performing employees than they were before the economic crisis began.

“Despite the slow movement toward recovery, employers are still having to manage a shifting workforce as they balance selective hir-

ing with continuing to make some layoffs,” said Laurie Bienstock, U.S. strategic rewards leader at Watson Wyatt. “In this environment, it is no wonder that employers remain concerned about retaining their top talent. However, recognition programs and other plans that keep these employees engaged and motivated can create a key competitive advantage.”

### Executives Might Need to Wait Longer

In “Executive Pay and the Economic Recovery,” a separate survey conducted in late September, Watson Wyatt found that 63 percent of participating companies have no immediate plans to reverse or restore changes made to executive salaries.

With increased public scrutiny of executive pay expected to continue, many companies are avoiding additional short-term changes (e.g., salary reductions) and are focusing on longer-term shifts instead, such as better pay-for-performance and assessing their compensation programs within the new context of risk management, according to Watson Wyatt.

Here is a breakdown of what some companies are doing:

- Twenty-nine percent are raising performance goals relative to this year’s actual performance.
- Thirty-one percent are changing metrics in their annual incentive plans.
- Thirty-nine percent have already changed, or expect to

change, long-term incentive vehicles (*i.e.*, putting more emphasis on performance-based shares and on performance cash plans).

“Companies have moved beyond the short-term frenetic activity that we saw at the beginning of the year,” said Andrew Goldstein, North American co-leader of executive compensation consulting at Watson Wyatt. “Now, companies are looking at how they can best address more long-term concerns with structural changes to pay programs.”

Watson Wyatt found that 94 percent of participating companies expect more scrutiny of executive pay in the next two years due to the following factors:

- New legislation
- Securities and Exchange Commission regulations
- Public pressure

The majority of companies (60 percent) said they have little concern regarding possible say-on-pay requirements, according to the survey. In fact, most are being proactive by taking one of the following steps:

- Improving their Compensation Discussion and Analysis (CD&A) to explain pay program rationale and appropriateness to shareholders (70 percent)
- Identifying potential executive pay issues/concerns in advance (67 percent)

While 42 percent did express concern about potential legislation assessing executive pay for “excessive risk,” most are already addressing the issue:

- Fifty-four percent already have or plan to add a formal risk assessment process.
- Fifty percent already have or plan to certify in the proxy that a risk assessment has been performed.

“Companies recognize that changes to executive pay programs will be needed to stand up against growing criticism and increased pressure,” said Ira Kay, global director of executive compensation consulting at Watson Wyatt. “However, this change will be a long-term process and one that will require companies to focus on strengthening performance-based incentives, balancing risk and rewards, and meeting proactively with key stakeholders to discuss their pay program rationale.”

Watson Wyatt also reported that 19 percent of surveyed companies have eliminated their golden parachute tax gross-up provisions, and 44 percent have or are considering claw-back policies.

*For more information on the surveys, visit [www.watsonwyatt.com/hrprogramsOct09](http://www.watsonwyatt.com/hrprogramsOct09) and [www.watsonwyatt.com/ExecPayOct09](http://www.watsonwyatt.com/ExecPayOct09). ■*

## POINT OF VIEW

# Biz Frowns on House Health Care Bill

At least three business organizations released statements criticizing a health care reform bill passed by the U.S. House of Representatives early last month, saying that the legislation does not provide effective reform and that they hope the Senate will pass a bill more aligned with employers’ needs.

## Employer-Based Coverage Is Threatened

“We are disappointed by the passage of a House bill that we cannot support,” Business Roundtable President John J. Castellani said, referring to H.R. 3962, the Affordable Health Care for America Act. “The House legislation contains many provisions that will threaten the coverage that 177 million Americans currently

have through the employer-based system. Not only does it establish a government-run health plan, but it includes a ‘play or pay’ mandate for employers that would limit the flexibility employers have to develop innovative plans for our employees.

“In addition, the bill fails to meet the bipartisan goal of controlling costs,” Castellani continued. “To get health care reform right, we need to bend the cost curve for all Americans. The government-run plan would just shift costs to employers: first, by shrinking and unbalancing the pool of individuals covered by private insurance and second, by reimbursing providers at a sub-market rate. This won’t just hurt businesses, it will hurt the millions of workers

who have coverage through their employers.”

Castellani added, “We need to work together to preserve the best of America’s health care system—including employer-sponsored coverage—while expanding those benefits to all Americans and reducing costs. We urge Congress to keep this in mind as they reconcile the House and Senate bills, and ask them to create an open, all-inclusive market for health insurance.”

## Additional Strain on Small Businesses

Susan Eckerly, senior vice president of the National Federation of Independent Business (NFIB), said the legislation will cause additional strain on small businesses during difficult economic times.

"Punishing small employers with employer mandates, payroll taxes and a new government-run program paid for on the backs of small businesses, will not fix our broken health care system," she said.

"Small business owners are outraged that their elected representatives voted to pass a health care bill that fails to lower costs, increase choice and provide real competition for America's small businesses. Instead, this bill will actually make things worse, not better," she said. "With unemployment at a 26-year high, the punitive employer mandates and atrocious new taxes will force small business owners to eliminate jobs and freeze expansion plans at a time when our nation's economy needs small business to thrive."

She continued, "There is no question that this bill will have devastating consequences for small business owners, their employees and the country's economic recovery. As we have said since its original introduction,

H.R. 3962 is not the kind of reform America's small businesses need or want."

Eckerly described the legislation as "a failed opportunity to help small business owners with their No. 1 problem—skyrocketing health care costs. As the health care debate moves to the Senate floor, NFIB hopes senators will consider legislation that actually makes addressing the needs of small businesses a top priority. This begins with enacting responsible insurance market reforms and increasing competition in the small group and individual private market by creating an exchange modeled on the SHOP Act [the Small Business Health Options Program Act of 2009]. It means allowing national benefit plans to be purchased across state lines—something long supported by small business. And, it means making certain that they do so in a way that doesn't increase the cost of doing business for our small businesses."

## **Surtax Will Hurt Struggling Manufacturers**

National Association of Manufacturers (NAM) Executive Vice President Jay Timmons said the House-passed legislation fails to reduce costs, improve efficiency and raise the quality of health care.

"The public option will shift even more costs to private plans. Poorly conceived changes to the Employee Retirement Income Security Act (ERISA) will impose new cost burdens on business. And the 5.4 percent surtax on small business will add even more taxes to manufacturers struggling to emerge from the longest and deepest recession since the 1930s," he said.

According to Timmons, NAM "actively supports health care reform that lowers cost and improves care," and 97 percent of its members provide employees with quality health benefits on a voluntary basis. ■

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## **TAX PLANNING**

# **Stimulus Plan Offers Year-End Tax Savings**

**A**s you consider year-end strategies to lower your 2009 tax liability, don't forget about new tax incentives included in the American Recovery and Reinvestment Act [P.L. 111-5] and other recent legislation.

### **Individual Incentives**

Following are some actions you might want to take before the end of the calendar year to lower your 2009 tax bill.

**Purchase a home.** If you buy your first home before the end of the year, you may be eligible for a first-time homebuyer credit of up to \$8,000 on your 2009 federal income tax return. The original deadline for purchasing such a home was November 30, 2009,

but the deadline was extended to April 30, 2010, under the Worker, Home Ownership, and Business Assistance Act of 2009 [P.L. 111-92], which President Obama signed in early November.

The credit is generally available to homebuyers within qualifying income levels who have never owned a home or have not owned one in the past three years. The home must be the taxpayer's main home and located in the United States, according to the IRS. If the home ceases to be the taxpayer's main home within three years of purchase, then the credit must be repaid.

For a married couple filing a joint return, the credit is reduced if the couple's modified adjusted gross income (AGI) is

at least \$150,000 and eliminated for couples whose modified AGI is \$170,000 or above. The phase-out range for other taxpayers is \$75,000 to \$95,000.

Under the Worker, Home Ownership, and Business Assistance Act, a smaller credit of up to \$6,500 is also available for families that have lived in their homes for at least five years and want to "step up to a new home," The White House explained in a statement. "The new law extends a similar credit until May 2011 for members of the uniformed services whose duty takes them overseas."

**Buy a motor vehicle.** Taxpayers who purchase a new car, light truck, motor home or motorcycle before January 1, 2010, may

qualify for a special deduction for state and local sales and excise taxes on their 2009 tax returns. According to the IRS, the deduction is limited to the sales and excise taxes and similar fees paid on up to \$49,500 of the purchase price of a new vehicle.

Taxpayers in states without a state sales tax (e.g., Alaska, Delaware, Hawaii, Montana, New Hampshire and Oregon) can deduct other fees or taxes imposed by the state or local government, as long as the fees or taxes are assessed on the purchase of the vehicle and are based on the vehicle's sales price or as a per unit fee, the IRS reports.

Phase-out ranges for joint filers are \$250,000 to \$260,000 in modified AGI and \$125,000 to \$135,000 for other taxpayers. Taxpayers with incomes that exceed those thresholds do not qualify for the deduction.

According to the IRS, qualified taxpayers are entitled to the special deduction even if they do not itemize deductions on their returns. Such taxpayers would add the amount to the standard deduction on their 2009 tax return.

Taxpayers who purchase "plug-in" electric vehicles with certain types of batteries this year may qualify for a new tax credit created under the stimulus plan. The credit, which is equal to 10 percent of the cost of the vehicle (up to a maximum of \$2,500), is available for low-speed or two- or three-wheel electric vehicles (e.g., motor scooters) that are purchased after February 17, 2009, and before January 1, 2012.

"To qualify, a vehicle must be either a low-speed vehicle that is propelled to a significant extent by a rechargeable battery with a capacity of at least 4 kilowatt hours or be a two- or three-wheeled vehicle that is propelled to a significant extent by a rechargeable battery with a capacity of at least 2.5 kilowatt hours," the IRS states.

*Make energy-saving improvements to your home.* Two home

energy tax credits were expanded under the American Recovery and Reinvestment Act:

- 1. Nonbusiness energy property credit.** This credit equals 30 percent of what a homeowner spends on eligible energy-saving improvements, up to a maximum tax credit of \$1,500 for the combined 2009 and 2010 tax years. The cost of certain high-efficiency heating and air conditioning systems, water heaters and stoves that burn biomass all qualify, along with labor costs for installing those items. In addition, the cost of energy-efficient windows and skylights, energy-efficient doors, qualifying insulation and certain roofs also qualify for the credit, though the cost of installing those items does not.
- 2. Residential energy efficient property credit.** Homeowners

going green should also check out a second tax credit. The residential energy efficient property credit equals 30 percent of what a homeowner spends on qualifying property, such as solar electric systems, solar hot water heaters, geothermal heat pumps, wind turbines, and fuel cell property. Generally, labor costs are included when calculating this credit.

**A word of caution.** Not all energy-efficient improvements qualify for these tax credits, so homeowners should check the manufacturer's tax credit certification statement before purchasing or installing any of these improvements.

*Give your college student a new laptop.* Thanks to the American Recovery and Reinvestment Act, computer technology and equipment or Internet access and related services to be used by a college

### Other Year-End Tax Advice to Consider

There are many other steps that taxpayers can take before December 31 to minimize their 2009 tax liability. In the *Year-end tax guide for 2009*, Grant Thornton LLP's National Tax Office provides a tax strategy overview and identifies its top 20 tax planning opportunities.

"The economic turmoil of the last year has spurred the passage of more new tax laws," said Mel Schwarz, a partner in Grant Thornton LLP's National Tax Office and the firm's tax legislative affairs director. "While there are now more ways than ever to reduce your tax liability, taking full advantage of them is becoming harder. The outlook for future tax legislation can be even more confusing. You need to think farther ahead, employ clearer strategies and use every

tax break you can."

Opportunities identified in the guide include the following:

- Make up estimated tax shortfalls with withholding to avoid penalties.
- Bunch itemized deductions into a single year to get over minimum adjusted gross income floors.
- Give appreciated property to charity to increase tax savings.
- Exhaust the annual gift tax exclusion.
- Roll over a tax-preferred retirement account into a Roth IRA to pay less tax now when rates are low and asset values may be depressed.

To access the guide, visit [www.GrantThornton.com/yearend-taxguide](http://www.GrantThornton.com/yearend-taxguide). ■

student have been added to the list of qualified expenses under Section 529 college savings plans. That list also includes tuition, required fees, books, supplies, equipment and special needs services, as well as room and board for those who are considered at least a half-time student.

### Business Incentives

If your business is planning to purchase equipment in the near future, you might want to try to do it before year's end. That's because the new law includes two incentives that could help lower your 2009 tax liability:

1. **Bonus depreciation.** Under the new law, businesses can recover the cost of capital expenditures made in 2009 faster than usual, under an extended provision that permits businesses to immediately write off 50 percent of the cost of depreciable property, such as equipment, tractors, wind turbines, solar panels and computers.
2. **Enhanced small business expensing.** Small businesses can elect to write off the cost of certain capital expenses in the year of acquisition, instead of recovering those costs

through depreciation. Through 2010, small businesses may write-off up to \$125,000 (indexed for inflation) of capital expenditures subject to a phase-out when capital expenditures are more than \$500,000 (indexed for inflation). However, the American Recovery and Reinvestment Act extended through 2009 a measure enacted last year that temporarily increases to \$250,000 the amount that can be written as capital expenses and boosts the phase-out threshold to \$800,000. ■

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## DEALING WITH THE IRS

# IRS Targets High-Wealth Individuals

**H**igh-wealth individuals can expect greater scrutiny from the IRS with the recent formation of a Global High Wealth Industry group within its Large and Mid-Size Business operating division.

### Compliance Crackdown

During a presentation at the AICPA National Conference on Federal Taxation, IRS Commissioner Douglas Shulman provided an overview of the group and its mission. "While we are in the early stages of this work, this new unit will centralize and focus IRS compliance expertise involving high wealth individuals and their related entities—which can often have an international component. Tax agencies around the world, including those in Japan, Germany, the UK, Canada and Australia, have also formed high wealth groups."

The individuals targeted are likely to be those with tens of millions of dollars in assets. "[H]igh wealth individuals are not your typical Form 1040 filers with a W-2, some 1099 income, and maybe a Schedule C enclosed with their return," Shulman said.

The new unit will take a comprehensive approach, according to Shulman. "[Y]ou cannot assess compliance among the nation's wealthiest individuals by looking only at their 1040s. Their tax picture is much more complicated than this."

He continued, "For a variety of reasons—including valid business reasons—many high wealth individuals make use of sophisticated financial, business, and investment arrangements with complicated legal structures and tax consequences. Many of these arrangements are entirely above board. Others mask aggressive tax strategies."

Shulman said such complex financial arrangements may include the following:

- Trusts
- Real estate investments
- Royalty and licensing agreements
- Revenue-based or equity-sharing arrangements
- Private foundations
- Privately held companies
- Partnerships and other flow-through entities

"A single high wealth individual may have actual or ben-

eficial ownership of numerous related entities, sometimes alone and sometimes along with other family members or business associates," he said. "And there are other tax considerations regarding high wealth individuals, including international sourcing of income and tax residency, and offshore structures and bank accounts, to name just a few."

### Defining "High Wealth"

The IRS is reviewing the approaches other countries have taken in defining the term "high-wealth," according to Shulman. "Some countries have defined high wealth individual based on assets, wealth or income amounts under their control, such as through privately-held corporations, partnerships, trusts, and family members. Some have looked at other factors as well, including the complexity of their financial affairs and their relationships with a large number of related entities."

The Organisation for Economic Co-operation and Development (OECD) is contemplating a definition that would use "something in the neighborhood of \$30 million" in assets as a "reasonable

dividing line” for many countries to use, Shulman said, adding that it would be up to individual countries to set their own criteria. “At least initially, we will be looking at individuals with tens of millions of dollars of assets or income.”

### IRS Strategy

“Going forward, we will take a unified look at the entire web of business entities controlled by a high wealth individual, which will enable us to better assess the risk such arrangements pose to tax compliance and the integrity of our tax system,” Shulman said. “Our goal is to better understand the entire economic pic-

ture of the enterprise controlled by the wealthy individual and to assess the tax compliance of that overall enterprise. We cannot do this by continuing to approach each tax return in the enterprise as a single and separate entity. We must understand and analyze the entire picture.”

The IRS has started hiring new agents, flow-through specialists and international examiners to conduct examinations of high-wealth individuals and their related enterprises, according to Shulman. “Among our first steps will be a small number of examinations of these high wealth individuals that will use this integrated, or enterprise, approach. What

we learn from these initial enterprise examinations will help us define the scope of our future work and build compliance tools going forward.”

Over time, the IRS plans to hire more examination agents and specialists, “such as economists to identify economic trends, appraisal experts to advise on valuation issues, and technical advisors to provide industry or specialized tax expertise,” he said. “We will also build new risk assessment techniques to identify high-income and high-wealth individuals and their related enterprises that should be reviewed holistically.” ■

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### Free Financial Planning Guide Available

The economic climate and pending tax law changes prompted PricewaterhouseCoopers to restructure its 13th Annual *Guide to Tax and Wealth Management, 2010* to focus broadly on the strategies and tools that are instrumental to building an effective wealth management plan.

The *Guide*, which is available for free download for the first time at [www.pwc.com/pfs](http://www.pwc.com/pfs), provides strategies and guidance on how the economy impacts wealth management planning for individuals, families and business owners.

This year, PricewaterhouseCoopers is also offering an online resource center, which in conjunction with the *Guide*, serves as a reference for overall financial planning, including the following:

- Strategic tax planning
- Managing your portfolio
- Charitable giving
- Estate and gift planning
- Business succession planning
- Choosing entities for businesses/investments
- Family limited partnerships
- Insurance
- Family offices
- Working with financial advisers

"Certainly, in the last year, much has changed, and the economic landscape continues to evolve. But opportunity is inherent in times of change," said Richard Kohan, lead personal financial services principal with PricewaterhouseCoopers Private Company Services and co-author of this year's *Guide*. "Within this context, many individuals and businesses may want to reconsider their short- and long-term plans. Our goal is to describe the pertinent concepts and strategies so

individuals and business-owners can discuss these topics knowledgeably with their advisors."

"This year, perhaps more than any in recent memory, calls for an in-depth review of one's financial approach," said Brittney Saks, personal financial services partner with PricewaterhouseCoopers Private Company Services and co-author of this year's *Guide*. "Tax planning and wealth management are undertakings that should be actively overseen throughout the year, but year's end is a logical time to step back and take a fresh look at both your goals and the ways you plan to reach them."

### Most Pension Plan Limitations Unchanged

Dollar limitations on benefits and contributions under qualified retirement plans must be adjusted annually for cost-of-living increases, but the limitations will remain unchanged for 2010, according to the IRS.

That is because the cost-of-living index for the third quarter of 2009 is less than the cost-of-living index for the third quarter of 2008, and any decline in the applicable index cannot result in a reduced limitation.

A few pension-related amounts will increase slightly next year, including the adjusted gross income limitation under Internal Revenue Code Section 25B(b)(1)(A) for determining the retirement savings contribution credit, which will rise as follows:

- From \$33,000 to \$33,500 for married taxpayers filing a joint return
- From \$24,750 to \$25,125 for taxpayers filing as head of household
- From \$16,500 to \$16,750 for all other taxpayers

### Tax Administration Recommendations Released

An advisory group has suggested that the IRS take a closer look at a broad array of tax administration issues. Creating a new form and modified rules on information reporting of payments made in settlement of payment card and third-party network transactions are two of the 50 recommendations from the Information Reporting Program Advisory Committee (IRPAC).

Other key recommendations include the following:

- Providing guidance on tax information reporting and withholding
- Reporting of customer's basis in securities transactions
- Creating online Form W-4 instructions for non-resident aliens
- Withholding on certain payments made by government entities
- Providing additional guidance to government entities that must comply with the withholding provisions
- Permitting payers to issue payee statements showing only the last four digits of a payee's taxpayer identification number

### Executives Share Views on Cloud Computing

More than 60 percent of executives in a recent Deloitte poll said they think cloud computing will be a transformative technology in the industry and can drive financial benefits. At the very least, cloud computing will be useful for certain kinds of enterprise services, according to survey respondents, who were polled during Deloitte's Web cast, *Cloud Computing in the Enterprise: Not If, But When and How?*

"Cloud services create the possibility of rapid business model innovation, improved service levels

and new ways of controlling costs," said Mark White, principal, Deloitte Consulting LLP and the Web cast moderator. "Executives can also realize financial benefits, including reduced capital expenditures."

"Cloud computing is emerging through the convergence of a variety of trends in information technology—utility computing, virtualization and IT service management model," said John Hagel, co-chairman of the Deloitte Center for the Edge. "Today, it is generally viewed as an attractive new form of low cost IT outsourcing that can also help to turn a fixed cost into a more scalable variable cost," but cloud computing is expected to evolve in the future.

Executives said that key issues for adopting cloud computing in their organizations include concern over security and privacy (34.6 percent) and data controls and ownership, audit and assurance (22.1 percent). To listen to the Webcast visit [www.deloitte.com/us/dbriefs/futurete](http://www.deloitte.com/us/dbriefs/futurete).

### Streamlined Form Helps with Mortgage Refinancing

A new IRS form makes it easier for taxpayers to order copies of their tax return transcripts, for example, when modifying or refinancing their mortgage, according to the IRS.

Form 4506T-EZ, *Short Form Request for Individual Tax Return Transcript*, can now be used by individuals to order a Form 1040 series tax return transcript free of charge. "A transcript is a computer print-out that includes most lines on the original return," the IRS explains. "A transcript often is an acceptable substitute for a copy of the original tax return for purposes of verifying income."

If you need an exact copy of your tax return, file Form 4506, *Request for Copy of Tax Return*, or ask your tax return preparers. Copies ordered from the IRS cost \$57 and can take 60 days to process.

### Overused Buzzwords Hamper Communication

At the end of the day ... Synergy ... Solution ... Think outside the box ... On the same page ... Customer-centric ... Those are among the "Hall-of-Fame" buzzwords cited in 2004 and 2009 surveys conducted by Accountemps ([www.accountemps.com](http://www.accountemps.com)).

The staffing services firm says that the overuse of clichés, buzzwords and industry jargon often leads to a "disconnect" between co-workers. "When business or industry terms become overused, people stop paying attention to them," said Max Messmer, chairman of Accountemps and author of *MANAGING YOUR CAREER FOR DUMMIES®*, 2nd Edition (John Wiley & Sons, Inc.). "The best communicators use clear and straightforward language that directly illustrates their points."

Surveyed executives were asked to identify "the most annoying or overused phrase or buzzword in the workplace today." Responses in the current survey included the following:

- Leverage (*I.e.*, "We intend to leverage our investment in IT infrastructure across multiple business units to drive profits.")
- Reach out ("Remember to reach out to customers impacted by the change.")
- It is what it is. ("The server is down today, and clients are irate. It is what it is.")
- Viral ("Our video has gone viral.")
- Game changer ("Transitioning from products to solutions was a game changer for our company.")
- Disconnect ("There is a disconnect between what the consumer wants and what the product provides.")
- Value-add ("We have to evaluate the value-add of this activity before we spend more on it.")
- Circle back ("I'm heading out of the office now, but I will circle back with you later.")

- Socialize ("We need to socialize this concept with our key stakeholders.")
- Interface ("My job requires me to interface with all levels of the organization.")
- Cutting edge ("Our cutting-edge technology gives us a competitive advantage.")

### "Red Flags" Rule Enforcement Delayed

Creditors and financial institutions required by the Federal Trade Commission (FTC) to implement identity theft prevention programs received a seven-month reprieve when the FTC announced that it would delay enforcement of the "Red Flags" Rule until June 1, 2010.

The Fair and Accurate Credit Transactions Act of 2003 (FACTA) (P.L. 108-159) directed the FTC and other financial regulatory agencies to create rules requiring creditors and financial institutions with covered accounts to implement programs that would identify, detect and respond to patterns, practices or specific activities that could indicate identity theft, according to the FTC.

The FTC had previously delayed enforcement of the Rule until November 1, 2009. However, at the request of members of Congress, it extended the deadline again.

"The FTC made an appropriate decision in delaying implementation of the Red Flags Rule and we appreciate the commission's continuing consideration of our request for a CPA exemption," said Barry Melancon, president and CEO of the AICPA. "We are concerned about the potentially broad application of the Red Flags Rule to the accounting profession."

He added, "As trusted advisors, CPAs are personally acquainted with their clients and adhere to strict privacy requirements over identifying information." ■

# AICPA Pushes for Tax Reform

The need for comprehensive tax reform, including revisions to the alternative minimum tax (AMT) and estate and gift tax rules, were among the key issues identified by AICPA President and CEO Barry Melancon during recent testimony before the President's Economic Recovery Advisory Board.

"The dynamic American economy is rebounding slowly and, we believe, is burdened by an unnecessarily cumbersome and somewhat outdated income tax system. In particular, we see significant problems for small businesses arising from the increasing complexity of the tax law," Melancon said.

"The AICPA has long been an advocate for simplification and fairness in the tax law," he said. "Although it may be impossible

to remove all complexity from our tax laws, a significant amount of simplification is achievable and would be beneficial for individual taxpayers, businesses, the federal government, and the economy."

In addition to a list of smaller changes to help simplify the tax system, the AICPA provided two major recommendations for the advisory board to consider:

## 1. Simplify the individual AMT.

Although the AICPA would prefer that the individual AMT be eliminated altogether, it recognizes that this would result in large revenue loss. So, the AICPA proposed 13 other solutions aimed at reducing or eliminating most of the complexity and unfair impact of the AMT.

2. **Reform the estate and gift system.** The organization recommended reforming the estate and gift tax rules before 2010, when the estate tax is scheduled to be repealed. AICPA's suggested reforms to the current estate and gift tax system include "increasing the exemption and indexing it for inflation; retaining the full step-up in basis for inherited assets and avoiding the complexities of carryover basis; providing broad-based liquidity relief, rather than targeted relief provisions, and providing portability to a surviving spouse to simplify estate planning and estate administration for married couples."

For more information, visit [www.aicpa.org](http://www.aicpa.org). ■

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