



Emergency Economic Stabilization Act of 2008, Energy Improvement and Extension Act of 2008 and Tax Extenders and Alternative Minimum Tax Relief Act of 2008 [HR 1424]

On October 3, 2008, President Bush signed H.R. 1424 that contains multiple pieces of legislation aimed at improving the economy and providing relief to taxpayers. Included in the bill are the *Emergency Economic Stabilization Act of 2008*, *Energy Improvement and Extension Act of 2008*, and *Tax Extenders and Alternative Minimum Tax Relief Act of 2008*. The new law includes many important tax changes, including alternative minimum tax (AMT) relief, extensions of expired and expiring business and individual tax provisions, energy incentives, disaster relief, and revenue raisers. This summary will focus on the tax provisions contained in the *Tax Extenders and Alternative Minimum Tax Relief Act of 2008*.

Individuals	
Cancelled Mortgage Debt	<p>The mortgage forgiveness exclusion is extended for three additional years , so that it applies to indebtedness discharged before January 1, 2013.</p> <p>Other than extending the exclusion, the new law does not make any changes to the rules for excluding qualified mortgage indebtedness from income.</p> <p>Effective for discharges of debt after December 31, 2009.</p>
Qualifying Child	<p>Modifications to the definition of a qualifying child include the following:</p> <ul style="list-style-type: none"> • Requires that a qualifying child be younger than the claimant;

	<ul style="list-style-type: none"> • The qualifying child be unmarried; • Qualifying child tax benefits are only allowed to the child's parents; and • The child tax credit for a qualifying child is denied unless the child is the taxpayer's dependent. <p>Effective for tax years beginning after December 31, 2008.</p>
Child Tax Credit	<p>The refundable amount of child tax credit is increased for 2008. Generally, the child tax credit is refundable to the extent of 15% of the taxpayer's earned income in excess of a statutorily set threshold. For 2008, this amount was set at \$12,050.</p> <p>The new law adds a special rule for calculating the refundable amount of the child tax credit for 2008 only. The threshold amount used to calculate the refundable portion of the credit for the 2008 tax year is \$8,500, instead of \$12,050.</p> <p>Effective only for tax years beginning in 2008.</p>
Casualty Loss	<p>The new law increases the per-casualty floor for casualty and theft losses of personal-use property from \$100 to \$500. For tax years beginning after December 31, 2009, the per-casualty floor will revert to \$100.</p> <p>Effective for tax years beginning after December 31, 2008 and before January 1, 2010.</p>
IRA Distributions to Charity	<p>Taxpayers who have reached age 70-1/2 are permitted to make tax-free trustee-to-trustee contributions of their IRA to qualified charitable organizations in tax years beginning after December 31, 2007 and before January 1, 2010.</p> <p>In other words, qualifying taxpayers may exclude from gross income up to \$100,000 of their qualified charitable distributions for each tax year beginning in 2008 and 2009 in addition to any qualified charitable distributions they may have made in 2006 and 2007.</p>

State Sales Tax Deduction	The election to claim an itemized deduction for state and local general sales taxes is extended for two years and applies through 2009.
Real Estate Tax Deduction	The additional standard deduction that is available to non-itemizers for real property taxes in 2008 is extended through 2009. This is a one year extension.
Deduction for Higher Education Expenses	<p>The above-the-line deduction for higher-education expenses is extended for two years through 2009.</p> <p>The maximum allowable deduction is:</p> <ul style="list-style-type: none"> • \$4,000 for taxpayers whose AGI, with certain modifications, doesn't exceed \$65,000 (\$130,000 for a joint return); • \$2,000 for taxpayers whose modified AGI exceeds \$65,000 (\$130,000 for a joint return), but doesn't exceed \$80,000 (\$160,000 for a joint return); and • Zero for other taxpayers. <p>Effective for tax years beginning after December 31, 2007 and before January 1, 2010.</p>
Teacher's Expenses	<p>The above-the-line deduction for teachers' out-of-pocket classroom-related expenses is extended through 2009. The limit remains at \$250.</p> <p>Effective for tax years beginning after December 31, 2007 and before January 1, 2010.</p>
District of Columbia Homebuyer Credit	<p>The tax credit for first time DC homebuyers is extended for two years to property bought before January 1, 2010.</p> <p>Effective for tax years beginning after December 31, 2007 and before January 1, 2010.</p>
Nonbusiness Energy Property Credit	<p>The nonbusiness energy property credit under Sec. 25C, which expired December 31, 2007, is reinstated for expenditures made after December 31, 2008 through December 31, 2009.</p> <p>The credit does not apply to property placed in service during the 2008</p>

calendar year, which means the nonbusiness energy credit is reestablished for one year for property placed in service after December 31, 2008 and before January 1, 2010.

The nonbusiness energy property credit is equal to the sum of:

- 10% of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements (i.e., building envelope components) installed during the tax year; and
- The amount of residential energy property expenditures (i.e., \$50 for each advanced main air circulating fan, \$150 for each qualified natural gas, propane, or oil furnace or hot water boiler, and \$300 for “qualified energy efficient property,” including heat pumps, water heaters, and central air conditioners, see below) paid or incurred by the taxpayer during the tax year.

Additional changes:

- Biomass fuel stoves are added to the list of energy-efficient building property that qualifies for the nonbusiness energy credit. This is a stove that burns “biomass fuel,” to heat a dwelling unit located in the U.S. that the taxpayer uses as a residence, or to heat water for use in the residence, and that has a thermal efficiency rating of at least 75%.
- Geothermal heat pumps are no longer energy efficient building property.
- The type of water heater that qualifies as energy efficient building property is expanded to include a natural gas, propane, or oil water heater that has a thermal efficiency of at least 90%.
- Asphalt roofs with appropriate cooling granules are added to the definition of qualified energy efficiency improvements and building envelope components. **NOTE:** This change applies to property placed in service after October 3, 2008.

Residential Energy Efficient Property Credit	<p>Individuals are allowed a residential energy efficient property credit for expenditures for qualified solar electric property, qualified solar water heating property, and qualified fuel cell property. The credit is extended for eight years, through 2016.</p> <p>Additional changes:</p> <ul style="list-style-type: none"> • The credit includes expenditures for residential wind property and geothermal heat pumps; and • The credit is allowed to be claimed against AMT. <p>Effective for tax years beginning after December 31, 2007.</p>
Credit for Solar Electric Property	<p>Under prior law, taxpayers were allowed a credit equal to 30% of the expenditures incurred for solar electric property installed in their residence. The credit was limited to \$2,000.</p> <p>Beginning in 2009, the \$2,000 credit limit no longer applies. This means the credit is 30% of the total cost.</p> <p>Effective for tax years beginning after December 31, 2008.</p>
Alternative Minimum Tax Relief	
Temporary AMT Patch	<p>Alternative minimum tax (AMT) exemption amounts are increased from 2007 levels. The following exemption amounts apply to 2008:</p> <ul style="list-style-type: none"> • \$69,950 for married couples filing a joint return and surviving spouses. • \$46,200 for single and head of household filers. • \$34,975 for married individuals filing separate returns. <p>The Act doesn't change the phase-out rules for the AMT exemption amount. Those amounts remain at the following:</p> <ul style="list-style-type: none"> • \$112,500 for unmarried individuals. • \$150,000 for married individuals filing a joint return and surviving spouses.

	<ul style="list-style-type: none"> • \$75,000 for married individuals filing separate returns. <p>For certain children with unearned income over \$1,800, the AMT exemption amount can't exceed the sum of the child's earned income plus \$6,400. In addition, the kiddie tax AMT exemption can't be more than \$46,200 (the child's regular AMT exemption).</p> <p>Effective for tax years beginning after 2007 but only to tax years beginning in 2008.</p>
<p>Nonrefundable Personal Credits</p>	<p>Certain nonrefundable personal credits are allowed to offset AMT. This provision was due to expire at the end of 2007. The Act extends the offset through 2008. The affected nonrefundable personal credits are:</p> <ul style="list-style-type: none"> • The child and dependent care credit. • The credit for the elderly and disabled. • The adoption expense credit. • The child tax credit. • The credit for interest paid or accrued on certain home mortgages of low-income persons (the mortgage credit certificate (MCC) credit). • The credit for higher education expenses (Hope and lifetime learning). • The credit for elective deferrals and IRA contributions (the saver's credit). • The nonbusiness energy property credit for energy-efficient improvements to a principal residence. • The residential energy efficient property (REEP) credit for photovoltaic, solar hot water, and fuel cell property added to a residence. • The first-time homebuyer credit for the District of Columbia. <p>For tax years beginning in 2008, the aggregate amount of nonrefundable personal credits may not exceed the sum of the</p>

	<p>taxpayer's regular tax liability and the AMT.</p> <p>Effective for tax years beginning after 2007 but only to tax years beginning in 2008.</p>
<p>AMT Refundable Credit</p>	<p>Under prior law, the AMT refundable credit amount for a tax year was based on the amount of long-term unused minimum tax credits (MTCs) for the tax year, and was reduced for high-income individuals. Before reduction, the AMT refundable credit amount for a tax year was equal to the greater of:</p> <ol style="list-style-type: none"> 1. \$5,000, 2. 20% of the long-term unused MTC for the tax year, or 3. The amount (if any) of the AMT refundable credit amount for the preceding tax year, before any AGI-based reduction. <p>Thus, an individual was entitled to an AMT refundable credit amount of at least \$5,000 for a tax year, provided the individual's long-term unused MTC was at least \$5,000.</p> <p>The new law changes the method of determining the AMT refundable credit amount used in computing the refundable portion of the MTC allowed for tax years beginning after 2007 and before 2013 to individuals who have long-term unused MTCs. The new law deletes the \$5,000 alternative available under prior law, and provides that an individual's AMT refundable credit amount for a tax year is the amount equal to the greater of :</p> <ol style="list-style-type: none"> 1. 50% of the long-term unused MTC for the tax year; or 2. The amount (if any) of the AMT refundable credit amount determined under Sec. 53(e) for the taxpayer's preceding tax year. This amount is determined without regard the increased AMT refundable credit amount allowed under the new law for interest and/or penalties paid before October 3, 2008 with respect to the application of the AMT ISO adjustment. <p>Effective for tax years beginning after December 31, 2007, and before</p>

	January 1, 2013.
Incentive Stock Option Relief	<p>The new law provides specific relief for AMT attributable to the incentive stock option (ISO) adjustment. Any underpayment of tax that is outstanding on October 3, 2008, and that is attributable to the application of the AMT adjustment for ISOs for any tax year ending before January 1, 2008, and any interest or penalty with respect to that underpayment that is outstanding on October 3, 2008, is abated.</p> <p>Specifically, the new law abates the following amounts:</p> <ul style="list-style-type: none"> • Underpayments of tax for tax years before 2008 that are attributable to the AMT ISO adjustment. • Any interest on underpayments described in (1) above. • Any penalty applicable to an underpayment described in (1) above; and • Any interest imposed on any penalty described in (3) above. <p>Effective October 3, 2008.</p>
Investment Provisions	
Broker Reporting	<p>Under current law, every person doing business as a broker must file an information return (Form 1099-B) in accordance with IRS regulations. The return must show the name and address of each customer, as well as details concerning gross proceeds and any other information IRS may require.</p> <p>Under the new law, every broker that is required to file a Form 1099-B reporting the gross proceeds of a “covered security” must include the customer's adjusted basis in the security and whether any gain or loss is short term or long term under Sec. 1221.</p> <p>The term “covered security” means any “specified security” acquired on or after the “applicable date” if the security:</p> <ul style="list-style-type: none"> • Was acquired through a transaction in the account in which the security is held; or

- Was transferred to the account from an account in which the security was a covered security, but only if the broker received a statement under Code Sec. 6045A with respect to the transfer. Under this rule, securities acquired by gift or inheritance are not covered securities.

The term “specified security” means:

- Any share of stock in a corporation;
- Any note, bond, debenture, or other evidence of indebtedness;
- Any commodity, or contract or derivative with respect to the commodity, if IRS determines that adjusted basis reporting is appropriate for purposes of the Code Sec. 6045(g) reporting requirements; and
- Any other financial instrument with respect to which IRS determines that adjusted basis reporting is appropriate for purposes of the Code Sec. 6045(g) reporting requirements.

The term “applicable date” means:

- January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in item (ii), below);
- January 1, 2012, in the case of any stock for which an average basis method is permissible under; and
- January 1, 2013, or any later date IRS determines in the case of any other specified security.

The deadline for furnishing these information statements to customers is on or before February 15 of the year following the calendar year for which the return was required to be made. Previously, this date was January 31.

Effective January 1, 2011, except that the changes relating to due dates for statements furnished to customers apply to statements

	required to be furnished after December 31, 2008.
Determining Basis	<p>In general, for purposes of determining a gain or loss, the basis of a security is its cost.</p> <p>Under the new law, in the case of the sale, exchange, or other disposition of a specified security on or after the applicable date (defined above), the determination of basis under Sec. 1012 will be applied on an account-by-account basis. This means that the conventions prescribed by regulations under Sec. 1012 for determining adjusted basis (i.e., the FIFO, specific-identification, and average-cost conventions) will apply on an account-by-account basis.</p> <p>For example, if a customer holds shares of the same specified security in accounts with different brokers, each broker makes its adjusted basis determinations by reference only to the shares held in the account with that broker, and only shares in the account from which the sale is made can be identified as the shares sold.</p> <p>Except under the dividend reinvestment rules, any stock for which an average-basis method is permissible under Sec. 1012 which is acquired before January 1, 2012, will be treated as a separate account from any stock acquired on or after January 1, 2012.</p> <p>Under the dividend reinvestment plan rules, the basis of stock acquired after December 31, 2010 and held as part of the plan, will be determined using one of the methods which can be used for determining the basis of stock in an open-end fund.</p> <p>Effective January 1, 2011.</p>
Covered Security Basis Reporting	<p>Every “applicable person” that transfers to a broker a “covered security” will have to furnish to that broker a written statement that will enable the broker to meet the requirements discussed above. This means the furnished statement must allow the transferee broker to satisfy the basis and holding period reporting requirements.</p> <p>Any transferee statement must be furnished no later than 15 days</p>

	<p>after the date of the transfer.</p> <p>An “applicable person” is:</p> <ul style="list-style-type: none"> • Any broker; and • Any other person IRS provides in the regulations. <p>Effective January 1, 2011.</p>
<p>Reporting Requirements for Organizational Changes</p>	<p>Any issuer of a specified security will have to file an information return setting forth:</p> <ol style="list-style-type: none"> 1. A description of any organizational action that affects the basis of the specified security of the issuer; 2. The quantitative effect on the specified security's basis resulting from the organizational action; and 3. Any other information the IRS may prescribe. <p>Stock splits, mergers, and acquisitions are examples of organizational changes that affect basis.</p> <p>The information return will have to be filed no later than the <i>earlier</i> of:</p> <ul style="list-style-type: none"> • 45 days after the date of the organizational action; or • January 15 of the year following the calendar year during which the organizational action occurred. <p>Effective January 1, 2011.</p>
<p>Ordinary Gain Treatment on Sale of Preferred Stock</p>	<p>Gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution is treated as ordinary income or loss.</p> <p>Applicable preferred stock is any stock:</p> <ul style="list-style-type: none"> • That is preferred stock in the Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac); and • That was held by the applicable financial institution on

	<p>September 6, 2008, or was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.</p> <p>For these purposes, an applicable financial institution is:</p> <ul style="list-style-type: none"> • A financial institution referred to in Sec 582 (i.e., a bank, small business investment company, business development corporation, or certain other financial institutions); or • A depository institution holding company. <p>Effective for sales or exchanges occurring after December 31, 2007, and in tax years ending after December 31, 2007.</p>
Business Extenders	
Research Credit	<p>Several extensions to the research credit for businesses are extended as follows:</p> <ul style="list-style-type: none"> • The research credit is extended for two years until December 31, 2009. The credit was due to expire on December 31, 2007. • No election of the alternative incremental research credit (AIRC) applies to tax years beginning after December 31, 2008. • The alternative simplified research credit is increased to 14% for tax years ending after December 31, 2008. <p>Effective for tax years beginning after December 31, 2007.</p>
DPAD and Puerto Rico	<p>A taxpayer is allowed to treat Puerto Rico as part of the U.S. for purposes of the domestic production activities deduction (DPAD) rules, allowing the taxpayer to take into account its Puerto Rico trade or business activities for purposes of calculating its domestic production gross receipts and qualified production activities income, but only if the gross receipts from sources within Puerto Rico are currently taxable for U.S. federal income tax purposes. Under prior law, this rule only applied to a taxpayer's first two tax years beginning after December 31, 2005 and before January 1, 2008.</p>

	<p>The new law extends the rule to a taxpayer's first four tax years beginning after December 31, 2005 and before January 1, 2010.</p> <p>Effective for tax years beginning after December 31, 2007 and before January 1, 2010.</p>
Environmental Remediation Expenditures	<p>The election to expense qualified environmental remediation expenditures is extended for two years to include expenditures paid or incurred before January 1, 2010.</p> <p>Effective for expenditures paid or incurred after December 31, 2007 and before January 1, 2010.</p>
Qualified Film and TV Production Expense	<p>The qualified film and TV production expense election is extended for one year and permitted for up to \$15 million in cost even where cost exceeds \$15 million. This means that if the aggregate cost of a qualified film or television production that is incurred in 2008 or 2009, exceeds \$15 million, \$15 million of the cost qualifies for the deduction.</p> <p>Effective for qualified film and television productions commencing after December 31, 2007 and before January 1, 2010.</p>
Improvements to Retail Space	<p>Qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2010, must be depreciated over 15 years under MACRS. Qualified retail improvement property must be depreciated using the straight-line depreciation method.</p> <p>Qualified retail improvement property is any improvement to an interior portion of a building that is nonresidential real property if:</p> <ul style="list-style-type: none"> • That portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public; and • The improvement is placed in service more than three years after the date the building was first placed in service. <p>Effective for property placed in service after December 31, 2008 and before January 1, 2010.</p>

<p>Qualified Restaurant Property</p>	<p>Qualified restaurant property that is currently subject to 15-year straight-line cost recovery now includes buildings as well as improvements to buildings after 2008.</p> <p>Under the new law, qualified restaurant property means any Sec. 1250 property that is:</p> <ul style="list-style-type: none"> • A building, if that building is placed in service after December 31, 2008, and before January 1, 2010; or • An improvement to a building, if more than 50% of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals. <p>Effective for property placed in service after December 31, 2008 and before January 1, 2010.</p>
<p>Motorsports Entertainment Complexes</p>	<p>The placed-in-service deadline for the treatment of motorsports entertainment complexes for treatment as 7-year MACRS property is extended two years to December 31, 2009.</p> <p>A motorsports entertainment complex is a racing track that:</p> <ul style="list-style-type: none"> • Is permanently situated on land; and • During the 36-month period following the first day of the month in which the asset is placed in service, hosts one or more racing events for any type of automobile, trucks, or motorcycles and is open to the public for the price of admission. <p>Effective for property placed in service after December 31, 2007 and before January 1, 2010.</p>
<p>Reservation Property</p>	<p>Depreciation tax breaks that allow for a shorter recovery period for Indian reservation property are extended for two years to property placed in service through December 31, 2009.</p> <p>Effective for property placed in service after December 31, 2007 and</p>

	before January 1, 2010.
Indian Wage Credit	<p>Employers are eligible for a credit equal to 20% of the first \$20,000 of qualified wages and insurance costs paid to a qualified Native American employee. The Indian employment credit for wages paid to qualified Native Americans is extended for two years through December 31, 2009.</p> <p>Effective for tax years beginning after December 31, 2007 and before January 1, 2010.</p>
Enterprise Zone and Enterprise Community Designations	<p>District of Columbia enterprise zone and enterprise community designations are extended for one year through December 31, 2009.</p> <p>Special tax incentives are available to businesses and individual residents areas designated as the DC Enterprise Zone. In general, the tax incentives available in connection with the DC Zone are:</p> <ul style="list-style-type: none"> • A 20% wage credit; • An additional \$35,000 of Sec. 179 expensing for qualified zone property; and • Expanded tax-exempt financing (permitting the issuance of a higher amount of DC Zone bonds for certain zone facilities). <p>Effective for periods beginning after December 31, 2007 and ending before January 1, 2009.</p>

Zero Percent Capital Gain on DC Zone Assets	<p>There is an exclusion from gross income for qualified capital gain from the sale or exchange of any DC Zone asset held for more than five years. A DC Zone asset is one of the following:</p> <ul style="list-style-type: none"> • Any DC Zone business stock; • Any DC Zone partnership interest; and • Any DC Zone business property. <p>The zero percent capital gains rate for DC Zone assets is extended for two years to apply to assets acquired before January 1, 2010, and thus includes gain attributable to the period before January 1, 2015. There is no requirement that the gain must be recognized before January 1, 2010. A taxpayer who holds a DC Zone asset after December 31, 2014, should consider having it appraised as of that date to establish the amount of gain attributable to periods before, January 1, 2015, that qualifies for the zero-percent capital gains rate.</p> <p>Effective for acquisitions after December 31, 2007 and before January 1, 2010.</p>
New Markets Tax Credit	<p>The new markets tax credit under Sec. 45D is available for qualified equity investments in a qualified community development entity (CDE). The credit is extended through calendar year 2009.</p> <p>The \$3.5 billion limitation that applied for 2006, 2007 and 2008 also applies to 2009.</p> <p>Effective October 3, 2008.</p>
S Corporation Charitable Contribution	<p>The rule that states an S corporation's charitable contribution of property reduces the shareholder's basis only by the contributed property's basis is extended for tax years beginning in 2008 and 2009.</p> <p>Effective for contributions made in tax years beginning after December 31, 2007 and before January 1, 2010.</p>
Corporate Charitable Contributions	<p>The following charitable contributions made by corporations is</p>

	<p>extended through 2009:</p> <ul style="list-style-type: none"> • The enhanced deduction for qualified computer contributions; • The above-basis deduction for book inventory contributions to schools; and • The above-basis deduction for contributions of apparently wholesome food inventory. <p>Effective for contributions made in tax years beginning after December 31, 2007 and before January 1, 2010.</p>
<p>Contributions by Farmers and Ranchers</p>	<p>The special higher charitable deduction limitation on qualified conservation contributions by qualified farmers or ranchers is expanded to apply to contributions of apparently wholesome food inventory through end of 2008.</p> <p>The new law provides that in the case of a qualified farmer or rancher, any charitable contribution of wholesome food which is made during the period beginning on October 3, 2008 and before January 1, 2009, will be treated as if it were a qualified conservation contribution.</p> <p>Qualified conservation contributions are allowed up to 100% of the taxpayer's taxable income, after taking into account other allowable charitable contributions.</p> <p>Effective for tax years ending after October 3, 2008 and for contributions made during the period beginning on October 3, 2008 and before January 1, 2009. This means that contributions can be made only for the three-month period beginning on October 3, 2008 and ending on or before December 31, 2008.</p>
<p>Preparer Penalties</p>	
	<p>The “more likely than not” standard for preparer penalties under Sec. 6694 for understatements due to unreasonable positions, is replaced by a substantial authority standard. This easing of the standard does not apply in the case of tax shelters and reportable transactions.</p>

	<p>A tax return preparer must pay the penalty if the preparer:</p> <ul style="list-style-type: none"> • Prepares any return or claim for refund for which any part of an understatement of liability is due to an unreasonable position; and • Knew (or reasonably should have known) of the position. <p>A position is “unreasonable” unless there is or was substantial authority for it.</p> <p>Effective for returns prepared after May 25, 2007.</p>
<p>Employee Benefits</p>	
<p>Mental Health Parity</p>	<p>Under the mental health parity rules, group health plans that provide both medical and surgical benefits, and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits.</p> <p>The mental health parity rules will no longer be dependent on periodic Congressional renewal, and are now a permanent part of the Code and ERISA.</p> <p>Effective January 1, 2009.</p> <p>In addition, the mental health parity rules are amended to require parity in financial and treatment limits, and to require parity for addiction services; new disclosure and out-of-network provisions are also added.</p> <p>This additional provision is effective for plan years beginning one year after October 3, 2008.</p>
<p>Small Employer Exemption</p>	<p>The mental health parity rules do not apply to a group health plan maintained by a small employer. The definition of “small employer” means, for a calendar year and a plan year, an employer who employed an average of at least 2 (or 1 in the case of an employer residing in a state that permits small groups to include a single</p>

	<p>individual), but not more than 50 employees, on business days during the preceding calendar year.</p> <p>Effective for plan years beginning one year after October 3, 2008.</p>
Coverage of Dependent College Students	<p>The new law prohibits group health plans from discontinuing coverage of college students who take a medically necessary leave of absence. Specifically, a group health plan is not allowed to terminate coverage of a “dependent child” under the plan due to a “medically necessary leave of absence” before <i>the earlier of</i>:</p> <ol style="list-style-type: none"> 1. The date that is one year after the first day of the medically necessary leave of absence; <i>or</i> 2. The date on which the coverage would otherwise terminate under the plan's terms. <p>Effective for plan years beginning one year after October 3, 2008.</p>
Bicycle Commuters	<p>A qualified bicycle commuting reimbursement is added to the list of qualified transportation fringe benefits.</p> <p>A “qualified bicycle commuting reimbursement” means, for any calendar year, any employer reimbursement during the 15-month period beginning with the first day of that calendar year for reasonable expenses incurred by the employee during that calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage if the bicycle is regularly used for travel between the employee's residence and place of employment. This means that a calendar year employer has until March 31 of the following year to make the reimbursement.</p> <p>The reimbursement is limited to \$20 per month (\$240/year) and is not indexed for inflation.</p> <p>Effective for tax years beginning after December 31, 2008.</p>
Oil and Gas Provisions	

<p>Domestic Production Activities Deduction</p>	<p>The otherwise-allowable domestic production activities deduction of taxpayers with oil-related qualified production activities income is reduced for tax years beginning after 2009. The deduction is reduced by 3% of the least of :</p> <ol style="list-style-type: none"> 1. The taxpayer's oil-related qualified production activities income for the tax year ; 2. The taxpayer's qualified production activities income for the tax year; or 3. The taxpayer's taxable income (determined without regard to the domestic production activities deduction). <p>Effective for tax years beginning after December 31, 2008.</p>
<p>Taxable Income Limit on Percentage Depletion</p>	<p>Generally, the percentage of depletion deduction cannot exceed 100% of the taxable income from oil and gas properties in any year. Special percentage depletion rules apply to oil and gas produced from “marginal” properties. Those rules provided that the 100%-of-taxable-income limitation didn't apply to domestic oil and gas production from marginal properties during any tax year beginning after December 31, 1997, and before January 1, 2008.</p> <p>The new law extends the rule suspending the 100%-of-taxable-income limitation with respect to oil and gas production from marginal properties to include any tax year:</p> <ul style="list-style-type: none"> • Beginning after December 31, 1997 and before January 1, 2008; or • Beginning after December 31, 2008 and before January 1, 2010. <p>Effective for tax years beginning after December 31, 2008 and before January 1, 2010.</p>
<p>Energy Credits for Businesses</p>	
<p>Geothermal Heat Pumps</p>	<p>A 30% business energy credit is allowed for geothermal heat pump</p>

	<p>systems. A geothermal heat pump system is equipment that uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.</p> <p>Effective for periods after October 3, 2008, in tax years ending after October 3, 2008.</p>
Home Builder Credit	<p>The energy efficient home credit for eligible contractors is extended one year through 2009.</p> <p>Effective for qualified new energy efficient homes acquired after December 31, 2008 and before January 1, 2010.</p>
Energy Efficient Commercial Property	<p>The deduction for energy efficient commercial building property is extended for five years to property placed in service after December 31, 2008 and before January 1, 2014.</p>
Biodiesel Credit	<p>The income and excise tax credits for biodiesel and renewable diesel are extended to apply through December 31, 2009.</p>
Disaster Relief	
AGI Limit	<p>The 10%-of-AGI limit on personal casualty losses is waived for "federally declared disasters" in 2008 and 2009.</p>
Additional Standard Deduction for Non-Itemizers	<p>Non-itemizers can take an additional standard deduction for net losses from federally declared disasters for both regular tax and AMT purposes.</p> <p>Thus, an individual's standard deduction is the sum of:</p> <ol style="list-style-type: none"> 1. The basic standard deduction; 2. The additional standard deduction for individuals who are age 65 or over and/or blind; 3. The real property tax deduction; and 4. The disaster loss deduction. <p>Effective for disasters declared in tax years beginning after December 31, 2007. The provision applies to "net disaster losses," which are net</p>

	losses from federally declared disasters occurring before January 1, 2010.
Loss Carryback and AMT Relief	<p>“Qualified disaster losses” from pre-2010 disasters can be carried back five years and are deductible against 100% of AMT income.</p> <p>Effective for losses arising in tax years beginning after December 31, 2007, in connection with disasters declared after that date. The provision applies to disasters occurring before January 1, 2010.</p>
Qualified Disaster Expenses	<p>A taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by the taxpayer as a deductible expense that is not chargeable to capital account. Such expenses are allowed as a deduction for the tax year in which it is paid or incurred.</p> <p>For these purposes, a “qualified disaster expense” is any expenditure:</p> <ol style="list-style-type: none"> 1. That is paid or incurred in connection with a trade or business or with business-related property, 2. Which is: <ul style="list-style-type: none"> • For the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010, • For the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before that date , or • For the repair of business-related property damaged as a result of a federally declared disaster occurring before that date, and 3. Which is otherwise chargeable to capital account. <p>Effective for amounts paid or incurred after December 31, 2007 in connection with disasters declared after that date.</p>
Section 179 Deduction	Sec. 179 expensing is increased for qualified disaster assistance

	<p>property.</p> <p>The maximum expense amount that can otherwise be deducted under Sec. 179 for the tax year is increased by the lesser of:</p> <ul style="list-style-type: none"> • \$100,000; or • The cost of qualified Sec. 179 disaster assistance property placed in service during the tax year. <p>In general, to be “qualified disaster assistance property,” the property must:</p> <ul style="list-style-type: none"> • Rehabilitate property damaged, or replace property destroyed or condemned, as a result of the “federally declared disaster,” except that for purposes of this rule, property is treated as replacing property destroyed or condemned, if, as part of an integrated plan, the property replaces property that is included in a continuous area that included property destroyed or condemned; and • Is similar in nature to, and located in the same county as, the property being rehabilitated or replaced. <p>Effective for property placed in service after December 31, 2007 with respect to disasters declared after December 31, 2007, but only if the disaster occurs before January 1, 2010.</p>
Bonus Depreciation and AMT	50% bonus depreciation and AMT depreciation relief are allowed in connection with disasters federally declared after 2007 and occurring before 2010.
Work Opportunity Credit	<p>The work opportunity credit hiring period is extended for two years for some individuals working in the Hurricane Katrina core disaster area.</p> <p>Effective for individuals hired after August 27, 2007 and before August 29, 2009.</p>
Rehabilitation Credit	The increased rehabilitation credit for qualified structures in the Gulf

	<p>Opportunity Zone is extended for one year to December 31, 2009.</p> <p>Effective for expenditures paid or incurred after October 3, 2008 and before January 1, 2010.</p>
Midwestern Disaster Area	<p>Temporary relief is provided for several taxpayers residing in the Midwestern disaster area. The “Midwestern disaster area” is an area:</p> <p>(A) For which a major disaster has been declared by the President on or after May 20, 2008, and before August 1, 2008, under section 401 of the <i>Robert T. Stafford Disaster Relief and Emergency Assistance Act</i> by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, and</p> <p>(B) Is determined by the President to warrant individual or individual and public assistance from the Federal Government under the <i>Stafford Act</i> for damages attributable to such severe storms, tornados, or flooding.</p> <p>Most of the temporary relief provisions apply only if both A and B above are satisfied. However, certain provisions apply even if areas are only described in A.</p>
Individual Counties	<p>The counties for which individual and/or public assistance has been designated are as follows:</p> <p>(1) Arkansas - individual assistance: Benton, Cleburne, Conway, Crittenden, Grant, Lonoke, Mississippi, Pulaski, Saline, and Van Buren counties.</p> <p>(2) Illinois - public assistance: Adams, Calhoun, Clark, Coles, Crawford, Cumberland, Hancock, Henderson, Jasper, Lawrence, Mercer, Pike, and Rock Island counties.</p> <p>(3) Indiana - public assistance: Bartholomew, Boone, Brown, Clay, Daviess, Dearborn, Decatur, Franklin, Greene, Henry, Jackson, Jefferson, Jennings, Johnson, Lawrence, Madison, Monroe, Morgan,</p>

	<p>Ohio, Owen, Randolph, Ripley, Rush, Shelby, Sullivan, Union, Vermillion, Vigo, and Wayne counties.</p> <p>(4) Iowa - individual and public assistance: Butler county.</p> <p>(5) Kansas - public assistance: Barber, Bourbon, Brown, Butler, Chautauqua, Cherokee, Clark, Clay, Comanche, Cowley, Crawford, Decatur, Dickinson, Edwards, Ellis, Franklin, Gove, Graham, Harper, Hodgeman, Jackson, Jewell, Kiowa, Linn, Logan, Mitchell, Montgomery, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Republic, Riley, Rooks, Rush, Saline, Seward, Sheridan, Smith, Stafford, Sumner, Thomas, Trego, and Wallace counties.</p> <p>(6) Michigan- public assistance: Allegan, Barry, Eaton, Ingham, Lake, Maistee, Mason, Missaukee, Osceola, Ottawa, and Wexford counties.</p> <p>(7) Minnesota - public assistance: Fillmore, Freeborn, Houston, and Mower counties.</p> <p>(8) Missouri - individual assistance: Barry, Jasper and Newton counties. Missouri also has 22 counties and one city designated for public assistance: Andrew, Atchison, Buchanan, Cape Girardeau, Clark, Holt, Jefferson, Lewis, Lincoln, Marion, Mississippi, New Madrid, Nodaway, Pemiscot, Perry, Pike, Platte, Ralls, St. Charles, St. Louis, Ste. Genevieve, and Scott Counties and the Independent City of St. Louis.</p> <p>(9) Nebraska - individual assistance: Buffalo, Butler, Colfax, Dawson, Douglas, Gage, Hamilton, Jefferson, Kearney, Platte, Richardson, Sarpy and Saunders counties. Nebraska also has 59 counties eligible for public assistance: Gage, Johnson, Morrill, Nemaha and Pawnee. Dodge, Douglas, Sarpy and Saunders Counties, Adams, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Chase, Colfax, Cuming, Custer, Dawson, Douglas, Fillmore, Frontier, Furnas, Gage, Garfield, Gosper, Hall, Hamilton Hayes, Holt, Howard, Jefferson, Keya, Paha, Lancaster, Lincoln, Logan, Loup, Merrick, McPherson, Nance, Otoe, Phelps, Platte, Polk, Red Willow, Richardson, Rock, Saline, Saunders, Sarpy, Seward, Sherman, Stanton, Thayer, Thomas, Thurston, Webster ,and York</p>
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	<p>counties.</p> <p>(10) Wisconsin - individual assistance: Columbia, Crawford, Milwaukee, Sauk, and Vernon counties.</p> <p>Individual assistance - aid to individuals and households.</p> <p>Public assistance - aid to public, and certain private, non-profit entities for certain emergency services and repair and replacement of damaged public facilities.</p>
<p>Temporary Relief Provisions</p>	<p>The following temporary relief provisions apply for the Midwestern disaster area:</p> <ul style="list-style-type: none"> • Tax-exempt bond financing for the Midwestern disaster area; • Additional low-income housing limitations; • Election to expense 50% of demolition and debris-removal costs; • Expensing of qualified environmental remediation expenditure; • Rehabilitation credit for expenditures for qualified rehabilitated structures and certified historic structures; • Extended NOL five-year carryback period for losses; • 100% ATNOLD deduction; • Tax credit bond financing; • Enhanced Hope credit and Lifetime Learning credit maximums for higher education expenses of students attending eligible education institutions located in the Midwestern disaster area; • Exclusion of the value of lodging provided to employees and their families from income for employees; • Tax credit for lodging provided to employees and their families by employers; • Relaxed rules for qualified retirement plan distributions; • Recontributions to qualified retirement plans due to withdrawals for home purchases; • Qualified retirement plan loans;

	<ul style="list-style-type: none"> • Employee retention credit; • Suspension of the limitations on the charitable deduction; • Suspension of certain limitations on personal casualty losses • Relief for filing and payment of taxes; • Look-back election for earned income credit and refundable child credit; • IRS authority to adjust rules to prevent the loss of deductions, credits and favorable filing status due to temporary relocations; • Qualified mortgage bonds; • An additional \$500 exemption for taxpayers who house people displaced in the Midwestern disaster area; • An increased charitable standard mileage rate for Midwestern-related relief equal to 70% of the business mileage rate; • An exclusion from income for mileage reimbursements of volunteers donating services for Midwestern-related relief; • An exclusion from income for discharges of nonbusiness debt of individuals; and • An extended five-year replacement period for involuntarily converted property. <p>Effective October 3, 2008.</p>
Miscellaneous Provisions	
Farm Property	<p>Most new farming machinery and equipment placed in service during calendar year 2009 is designated as MACRS 5-year property.</p> <p>To qualify for the five-year treatment, the property must meet the following additional requirements:</p> <ul style="list-style-type: none"> • The original use of the property must begin with the taxpayer after December 31, 2008; • The property must be placed in service before January 1, 2010; and • The property can't be a grain bin, cotton ginning asset, fence,

	<p>or other land improvement.</p> <p>Qualifying farming property is assigned a 10-year class life under ADS.</p>
DPAD and Qualified Films	<p>For purposes of the 50%-of-W-2-wages limitation, the new law adds a special rule for a qualified film. In the case of a qualified film, the term “W-2 wages” includes compensation for services performed in the U.S. by actors, production personnel, directors, and producers. Therefore, compensation is not restricted to W-2 wages for the limitation of qualified films.</p> <p>The definition of “qualified film,” is amended to include any copyrights, trademarks, or other intangibles with respect to the film.</p> <p>Effective for tax years beginning after December 31, 2007.</p>
Exxon Valdez Litigation.	<p>Special income averaging and rollover rules for amounts received from the Exxon Valdez litigation is provided to certain taxpayers.</p> <p>For purposes of the income averaging provision available to farmers and fishermen any “qualified taxpayer” who receives any “qualified settlement income” in any tax year, is treated as engaged in a fishing business and the qualified settlement income is treated as income attributable to a fishing business for the tax year.</p> <p>A “qualified taxpayer” is:</p> <ul style="list-style-type: none"> • Any individual who is a plaintiff in the civil action <i>In re Exxon Valdez, No. 89-095-CV (HRH) 25 (Consolidated) (D Alaska)</i>; or • Any individual who is a beneficiary of the estate of a plaintiff in item (A), above, who acquired the right to receive qualified settlement income from that plaintiff; and was the spouse or an immediate relative of that plaintiff. <p>“Qualified settlement income” is any interest and punitive damage awards which are:</p> <ul style="list-style-type: none"> • Otherwise includible in taxable income; and

- Received in connection with the civil action *In re Exxon Valdez, No. 89-095-CV (HRH) (Consolidated) (D. Alaska)*. The amounts may be received pre- or post-judgment, as lump sums or periodic payments, and may be related to a settlement or judgment.

Any qualified taxpayer who receives qualified settlement income during a tax year may, at any time before the end of the tax year in which the income was received, make one or more contributions to an eligible retirement plan of which the qualified taxpayer is a beneficiary, in an aggregate amount not to exceed the *lesser* of:

- \$100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in earlier tax years under this rule); or
- The amount of qualified settlement income received by the individual during the tax year.

An eligible retirement plan includes IRAs, qualified plans, annuity plans, 403(b) plans, and 457(b) plans.

No portion of qualified settlement income received by a qualified taxpayer is treated as self-employment income nor treated as wages.

Effective October 3, 2008.