

Overview of 2010 Income Tax Law Changes

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IRS Tax Forms & Publications

Washington, DC

Roth IRAs

- Beginning in 2010, any taxpayer can convert a retirement plan to a Roth IRA – no income limitation
- Half of amount converted included in gross income in 2011 and half in 2012
- Can elect to include entire amount in gross income in 2010

Exclusions from Income

- Qualified disaster relief payments relating to Chile earthquake on February 27, 2010
- Amounts received under a State loan repayment or forgiveness program intended to provide for the increased availability of health care services in underserved or health professional shortage areas
- Value of qualified Indian health care benefits



Farm Losses

- New rules for taxpayers other than C corporations who receive government subsidies
- Farm losses limited to greater of \$300,000 (\$150,000 if married filing separately) or taxpayer's total net farm income for the prior 5 tax years
- Unlimited carryforward

Deductions

- All taxpayers can deduct 100% of itemized deductions and personal exemptions
- Domestic production activities deduction

Increased to 9%

Deduction reduced for oil-related production activities

Alternative Minimum Tax

- Exemption reduced
 - \$33,750 for single or head of household
 - \$45,000 for married filing jointly or surviving spouse
 - \$22,500 for married filing separately
- Personal credits reordered



First-Time Homebuyer Credit

- Expires for homes purchased after April 30, 2010, unless binding contract signed before May 1, 2010, and with closing date before July 1, 2010, and actually close before October 1, 2010.
- Now available for long-time residents of same principal residence – credit limited to \$6,500
- Must attach settlement statement
- Must be 18 or over and not a dependent
- Special rules for individuals on qualified official extended duty outside United States
 - If duty is for at least 90 days between January 1, 2009, and April 30, 2010, have until April 30, 2011, to buy (July 1, 2011, for binding contracts signed before May 1, 2011)
 - No recapture required, even if house acquired in 2008

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Refundable Credit for Bonds

- Expands the type of tax credit bond (such as Build America Bonds) where issuer paid 35% of interest
- Does not provide option of 35% credit to holder
- Issuer must elect benefit
- Does not need to be issued before January 1, 2011
- Available for these bonds:
 - New clean renewable energy bonds
 - Qualified energy conservation bonds
 - Qualified zone academy bonds
 - Qualified school construction bonds

Other Credits

- Adoption credit
- Alternative motor vehicle credit
- Credit for employee health insurance expenses
- Credit for cellulosic biofuel

Basis of Inherited Property

- No automatic increase in basis to fair market value (FMV)
- Inherited property treated as gift
- Basis of inherited property is lesser of decedent's basis or FMV
- Executor may allocate limited basis increase to some property



Electronic Filing

- Tax preparers who file 11 or more individual tax returns must e-file these returns
- IRS can require certain financial institutions to e-file tax returns reporting withholding on foreign transfers, regardless of number of returns

Penalties

- Failure to file return penalties for partnerships and S corporations increased to \$195
- New accuracy-related penalty on underpayments for undisclosed foreign financial assets is 40% of underpayment
- Statute of limitations extended to 6 years for substantial omission of income in connection with certain foreign assets
- Minimum penalty for failure to report on certain foreign trusts increased to \$10,000
- Penalty for paying with bad check extended to any electronic payment

Hiring Incentives to Restore Employment (HIRE) Act Payroll Tax Exemption

- Payroll tax forgiveness
- Available for individual not related to employer who is hired after February 3, 2010, and before January 1, 2011
- Individual must certify under penalties of perjury he or she was not employed for more than 40 hours in the 60-day period ending on the day the employee begins employment
- Amount of forgiveness for first quarter 2010 treated as credit against second quarter taxes due
- No other credits for same wages

Economic Substance Doctrine

- Codified in new section 7701(o)
- Transaction has economic substance if
 - Transaction changes in a meaningful way (other than federal income tax effects) the taxpayer's economic position, and
 - Taxpayer has a substantial purpose (other than federal income tax effects) for entering into transaction
- For individuals, doctrine applies only to transactions entered into in a trade or business or an activity engaged in for the production of income
- New accuracy-related penalty for underpayments attributable to transactions lacking economic substance
- Increased penalty for nondisclosed noneconomic substance transactions

Foreign Reporting

- New reporting for individuals with certain foreign financial assets
- Total value of specified foreign financial assets must exceed \$50,000
- Penalty of \$10,000 for failure to file report, increased for failures for more than 90 days after notified of failure

Other Foreign Issues

- Foreign grantor trusts
 - U.S. beneficiary presumed unless certain information provided to IRS
 - Distribution presumed for certain loans from, or use of property of, trust for no compensation
 - New reporting for U.S. owners
- New reporting for U.S. shareholders of passive foreign investment companies
- Substitute dividends and dividend equivalent payments received by foreign persons treated as dividends

Preparer Cautions

- Haiti disaster charitable contributions -
Make sure taxpayer does not deduct in 2010 if deducted in 2009
- Military spouse residency -
Make sure claim correct residence – affects returns for state and possessions
- New PTINs –
Anticipate everyone will have to file for new PTIN in late 2010

Expired Individual Provisions

- No minimum distribution from IRA
- Exclusion of \$2,400 per recipient of unemployment compensation
- The exclusion from income for certain IRA distributions made directly to a charity
- Deduction for educator expenses in figuring AGI
- Tuition and fees deduction
- Deduction for extra \$3,000 IRA deduction for employees of bankrupt companies
- Increased standard deduction for real estate taxes or net disaster loss
- Itemized deduction or increased standard deduction for state or local sales or excise taxes on the purchase of a new motor vehicle

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Expired Individual Provisions (cont'd)

- Itemized deduction for state and local general sales taxes.
- DC first-time homebuyer credit
- Credit to holders of clean renewable energy bonds issued after 2009
- Alternative motor vehicle credit for all qualified hybrid motor vehicles placed in service after December 31, 2009, except for passenger automobiles and light trucks with a gross vehicle weight rating of 8,500 pounds or less
- Government retiree credit
- Decreased estimated tax payments for certain small businesses
- Certain tax benefits for Midwestern disaster areas
- Personal and casualty loss limit of \$500 (back to \$100)

Expired Business Provisions

- Research credit
- Shareholder basis adjustment for stock of S corporations making charitable contributions
- Indian employment credit
- Accelerated depreciation for qualified Indian reservation property placed in service after 2009
- 15-year recovery period for qualified leasehold improvements and restaurant property placed in service after 2009
- 7-year recovery period for a qualified motorsports entertainment complex for property placed in service after 2009



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Expired Business Provisions (cont'd)

- Special rules for contributions of food and book inventories
- Special rule for corporate contributions of computer technology or equipment for educational purposes
- Tax incentives based on the District of Columbia Enterprise Zone
- Deduction for domestic production activities in Puerto Rico
- Suspension of 100% taxable income limit on percentage depletion for oil and natural gas from marginal properties properties
- Environmental cleanup (remediation) costs deduction
- Reforestation expense deduction increase for certain small timber producers

Additional Resources

- **Draft 2010 forms:**
www.irs.gov/taxpros/lists/0,,id=97784,00.html
- **Final 2010 forms:**
www.irs.gov/formspubs/lists/0,,id=97817,00.html
- **What's Hot In Tax Forms, Publications, and Other Tax Products:**
www.irs.gov/formspubs/article/0,,id=97397,00.html
- **Legislation:** thomas.loc.gov
- **E-mail:** *taxforms@irs.gov