TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

MAJOR INCOME TAX PROVISIONS

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I. History.

A. TRA 2010 originated with a move to extend the "Bush income tax rates".

B. The legislation not only extended the rates, but extended unemployment tax benefits, estate tax rates, and other important tax items that were about to expire.

C. The legislation was approved by the Senate on December 15th and by the House the next day. The President signed the legislation on December 17th.

II. Background.

A. Contains various tax provisions that are intended to apply for only two years.

B. This is accomplished by extending the provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), generally for two years, including the "Bush tax cuts", the estate tax provisions and others.

C. The provisions of EGTRRA were set to expire on December 31, 2010. TRA 2010 extended that date, generally to December 31, 2012.

D. Before 1939, each Congress had to enact a tax law (i.e., a new tax law every two years) because there was no permanent tax law. The Internal Revenue Code of 1939 was the first permanent tax law. Although amended frequently, the law has been "permanent" since then.

E. But the idea of "two-year tax laws" harkens back to pre-1939 method of starting over every two years. It is inherently unfair to taxpayers in that it tends to limit taxpayers to "defensive tax planning" and makes meaningful tax planning difficult.

III. The income tax provisions.

A. There are 20 categories of income tax changes.

B. Many have multiple subcategories. For example, there are eleven under Energy, eight under Individual Tax Relief, thirty under Business Tax Relief, and five under Temporary Disaster Relief.

IV. Summary of the major income tax provisions.

A. Income tax rates.

1. The lower rates of EGTRRA would have expired on December 31, 2010.
2. TRA 2010 extends the rates at every income tax level for two years.
3. The maximum rate remains at 35%, instead of 39.6%.
4. The cost is estimated at $186.8 billion.

B. Itemized deductions.

1. The overall limitation on itemized deductions does not apply for two additional years (through 2012).
2. The phase-out of the personal exemption does not apply for two additional years (through 2012).
3. The cost is estimated at $20.7 billion.

C. Capital gains and dividend rates.

1. Lower rates (capital gains and dividends) are extended for two years.
2. The cost is estimated at $53.2 billion.

D. "Social security payroll tax" reduction.

1. All taxpayers have a reduction of 2 percentage points in the employee rate (from 6.2% to 4.2%) for 2011.
2. Same economics for self-employed individuals (reduced from 12.4% to 10.4%) for 2011.
3. The cost is estimated at $112 billion.

E. Alternative minimum tax.

1. AMT exemptions increased for 2010 and 2011.
2. Otherwise 20 million homes would have suffered tax increases of approximately $3,900 each.
3. The cost is estimated at $136.7 billion.

F. IRA charitable rollover.

1. The exclusion for qualified charitable contributions from an IRA, limited to $100,000 per year, expired on December 31, 2009.
2. The exclusion is extended for years beginning after December 31, 2009 and before January 1, 2012 (i.e., for 2010 and 2011).
3. As a result, individuals who have reached 70 ½ can make a qualified charitable distribution without being treated as a taxable withdrawal from an IRA.
4. The cost is estimated at $979 million.

G. State and local tax deduction.

1. Nine states, including Florida, have no personal income tax.
2. State and local income taxes are an itemized deduction for income tax purposes, but sales taxes generally are not.
3. From 2004 - 2009, taxpayers could elect to deduct state and local sales taxes in lieu of deducting state and local income taxes.
4. This was meaningful to taxpayers in Florida and other states without a state income tax.
5. The election is extended for two years, 2010 and 2011.
6. The cost is estimated at $5.5 billion.